

## Montana Transportation Commission

April 5, 2006 – Telephone meeting

draft

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For the hearing impaired, the TTY number is (406) 444-7696 or 1-800-335-7592, or call the Montana Relay at 711. Alternative accessible formats of this document will be provided upon request.

The Montana Transportation Commission met via conference call on April 5, 2006. The meeting was called to order by Chairman Kennedy at 8:04 am with the following participants:

Bill Kennedy, Transportation Commission Chair (District 5)  
Nancy Espy, Transportation Commission Vice Chair (District 4)  
Kevin Howlett, District 1 Transportation Commissioner  
Rick Griffith, District 2 Transportation Commissioner  
Jim Lynch, MDT Director  
Jim Currie, MDT Deputy Director  
Tim Reardon, MDT Chief Counsel  
Loran Frazier, MDT Chief Engineer  
Mark Wissinger, MDT Construction Engineer  
Suzy Althof, Contract Plans Bureau Chief  
Lorelle Demont, Commission Secretary  
Cary Hegreberg, Montana Contractors' Association Executive Director  
Al Schellinger, Schellinger Construction Co., Inc.  
Mark, M.A. DeAtley Construction, Inc.

### **Award US 93 projects from March 30, 2006 letting**

Loran Frazier explained that both projects on US 93 were advertised with A+B bidding. A represents the costs of the work, and B represents the time (number of days) reviewed staff recommendations for the following two projects.

Project 1: South of Ravalli-Medicine Tree & US 93 Visitor/Interpretive Center

[NH 5-2(121)27 & NH 5-2(128)28]

Three bids were tendered. There were no errors or omissions in the low bid which was 29.4 percent over our engineers' estimate. Frazier explained that the project was bid using an A+B mechanism, where A represents the cost of the work, and B represents the number of days to complete the work. Frazier went over the bid analysis:

<i>Bid item</i>	Bid price	Engineers' estimate	Analysis	Adjustment to engineers' estimate
Unclassified excavation	\$7.15	\$5.50	Given the complex nature of this work and the potential for double handling of the material, the engineers' estimate appears to be low. The average bid received for a nearby project (Vicinity White Coyote Road) was \$9.08, with a low bid of \$6.50. This project has significantly more rock excavation than the VWC Road project. Clear diesel is currently \$2.70 per gallon, and while the contractor has the option of applying for a fuel price escalation clause, this high price influences the initial price. \$7.15 is justifiable.	+\$676,196

<i>Bid item</i>	Bid price	Engineers' estimate	Analysis	Adjustment to engineers' estimate
Special borrow	\$11.25	\$9	The special borrow will be coming from two MDT prospected pits that are located about 5 miles southeast of St. Ignatius. The haul roads from these sources are on roads with a speed limit of 25 miles per hour which will slow production. Bid prices for the Vicinity White Coyote Road project ranged from \$8 to \$20 with an average bid price of \$11.79. \$11.25 can be justified.	+ \$221,233.50
Asphalt cement 70-28	\$440	\$320	We have seen increases in asphalt prices over the last several months and this month was no exception. Recent bid history indicates that the awarded bid price received on the Vicinity White Coyote Road project was \$397 so \$397 can be justified for this project.	+ \$204,850.80
Wildlife crossings		\$1 million	There are wildlife crossings in four different locations on this project. These crossings have pre-cast concrete arches or steel elliptical pipe options and are bid lump sum. As indicated earlier, it is very difficult to have usable bid history with lump sum items due to the fact that the wildlife crossings are all different. The bids we received were \$1.55 million, \$2 million, and \$2.125 million. The cost of temporary shorting, backfill, and bedding preparation have to be added on to the cost of the pipe. The cost for maintaining two-way traffic is not included. Considering the extra costs, we can justify \$1.55 million for this item.	+ \$550,000
Rest area building		\$280,000	This is the only item we weren't able to justify. The rest area building was bid as a lump sum item. The bids we received were \$550,000, \$485,000, and \$500,000. This computes to about \$1,000 per square foot for this 480 square foot building. The water system, picnic shelters, landscaping, trash receptacles, and sanitary sewer system are not included in this price.	No adjustment
Retaining walls		\$275	The three bids we received for retaining walls were \$475, \$646 and \$650. These walls are very difficult to estimate from bid history because they are all different and have varying levels of complexity. Judging by the bids we received, it would appear that our estimate is low. We can justify using a bid price of \$475.	+ \$545,300
Topsoil	\$23.50	\$10	MA Deatley indicated that they could only find one landowner willing to sell topsoil and there was some haul involved. The second and third bids received were \$23.40 and \$20. It appears that the engineers' estimate for this item is low and \$20 can be	+ \$294,469

<i>Bid item</i>	Bid price	Engineer s' estimate	Analysis	Adjustment to engineers' estimate
			justified.	
Mobilization			Adjustment to take into consideration the above changes.	+ \$300,000
Total adjustments				+ \$2,792,049
Original engineers' estimate+				\$15,442,049
Revised engineers' estimate				\$18,234,098

The low bid is 9.6 percent over the revised engineers' estimate, and within guidelines for award. Staff recommends the A portion of the A+B contract be awarded to M A Deatley Construction Inc in the amount of \$19,981,444.96. The department will determine whether or not to include the rest area building in the contract or not, pending further information as to what is contained in the lump sum. The infrastructure (sewer, water, well, picnic shelters) for the building will still be prepared as part of this project.

Commissioner Howlett moved to accept staff recommendations to award the A portion of the A+B contract project to M A Deatley Construction, Inc. in the amount of \$19,981,444.96; Commissioner Espy seconded the motion. All four commissioners voted aye.

## Project 2: Medicine Tree – Vicinity of Red Horn Rd [NH 5-2(122)31]

Two bids were tendered. There were no errors or omissions in the low bid which was 32 percent over our engineers' estimate. Frazier went over the items in the bid that were significantly different from the engineers' estimate:

<i>Bid item</i>	Bid price	engineers' estimate	engineers' estimate adjusted	Affect on total engineers' estimate
Unclassified excavation	\$7.45	\$6.50	The second low bid was \$13. Schellinger Construction indicated that there wasn't much salvageable material, and that a lot of the material there is saturated. They also indicated prices were affected by the need to "double handle" the material due to phasing and the large amounts of traffic. The average bid received for the Vicinity White Coyote Road project was \$9.08 therefore \$7.45 can be used for this project.	+ \$183,310.10
Special borrow	\$11.30	\$8	The second bidder came in at \$18. Bid prices for the Vicinity White Coyote Road project ranged from \$8 to \$20 with an average bid price of \$11.79. Schellinger's letter indicates that the material will be coming from the prospected sources that are about 5 miles southeast of St. Ignatius. The haul roads have a speed limit of 25 miles per hour which will slow production considerably. It would appear the engineers' estimate is low for this item and can be adjusted to \$11.30.	+ \$598,960
Grade S Plant mix	\$24.60	\$19	The average bid on the Vicinity White Coyote Road project was \$24.51 therefore \$24.50 can be justified for this project.	+ \$279,826.40
Asphalt Cement 70-28	\$413	\$320	The second bid priced this item at \$400. Cenex indicated the price would be \$383 per metric ton FOB Pablo. Given the recent increases in this market, \$400 can be justified.	+ \$215,728
Concrete Rein Concrete Box 1800 x 1200 mm	\$2,500	\$1,000	The second low bid priced this item at \$2,750. The awarded bid price for the Vicinity White Coyote Road project was \$2,200 therefore \$2,200 can be justified for this project.	+ \$125,625
Reinforced Concrete Box 2400 x 2400 mm	\$3,800	\$1,900	The second low bid was \$2,750. The low bid for the Vicinity White Coyote Road project was \$2,750 therefore \$2,750 can be justified for this project.	+ \$26,775
Concrete Arch 7320 x 3905 mm		\$7,500	The two bids received were \$13,000 and \$10,500 per meter. We have no bid history for this size of arch. Using an average of the two bids received, the engineers' estimate would be adjusted by \$145,775.	+ \$145,775
7320 mm x 4750 mm Concrete		\$8,000	The two bids received were \$14,500 and \$13,000. We have no bid history for this item either so we can justify using an	+ \$239,775

Arch			average of the two bids received.	
Subtotal				\$1,815,774
Mobilization	~16 %	~13%	Given the complex nature of this job and the tight time frame for completion, 15% can be justified for mobilization.	+ \$500,000
Adjustments				+ \$2,315,774
Original engineers' estimate (A portion only)				\$13,729,754. 50
Revised engineers' estimate (A portion only)				\$16,045,529

After accounting for the above adjustments and adjusting for mobilization, the revised engineers' estimate is \$16,045,529. The low bid, at 12.9 percent over the revised engineers' estimate, is still outside the guidelines for award. However, there is no indication that re-letting this project would result in any more competition or any better prices. Staff therefore recommends the A portion of the A+B contract be awarded to Schellinger Construction Co. Inc. in the amount of \$18,129,388.77.

Howlett said we don't want this delayed. Espy noted this would erode our ability to let all the projects this year we'd hoped to. Griffith asked how these adjustments would affect the Tentative Construction Program. Lynch said we may have to make changes. Currie noted these are bonded projects. Espy asked what this would do to our bonding. Lynch said we will be short; we will have more information to present about this subject.

Commissioner Espy moved to accept staff recommendations to award the A portion of the A+B contract to Schellinger Construction Co. Inc. in the amount of \$18,129,388.77 ; Commissioner Howlett seconded the motion. All four commissioners voted aye.

**Commission discussion**

Howlett said he was pleased at the number of Native Americans he'd seen working on the US 93 projects. Lynch said he would pass that along to the contractors.

The next commission teleconference will be held Monday, April 10 at 10 am. The next commission meeting will be held April 13 in Helena, starting at 8:30 am.

**Public comment**

Cary Hegreberg, on behalf of the Montana Contractors' Association, said thank you for taking a hard look at projects. He referred to recent information from the AGC that predicted oil and asphalt shortages, shortages of cement for concrete projects, and rapid escalation of project costs. The refining process leaves less "at the bottom" for use as asphalt. Hegreberg conveyed his appreciation to MDT and the Commission for working together on the impacts these escalating costs will have on the program.

The call concluded at 8:37 am.

Bill Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission

## Montana Transportation Commission

*April 10, 2006 – Telephone Meeting*

draft

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Note: => indicates follow-up is needed.

The Montana Transportation Commission met via conference call on April 10, 2006. The meeting was called to order by Chairman Kennedy at 10:06 am with the following participants:

- Bill Kennedy, Transportation Commission Chair (District 5)
- Nancy Espy, Transportation Commission Vice Chair (District 4)
- Kevin Howlett, District 1 Transportation Commissioner
- Deb Kottel, District 3 Transportation Commissioner
- Jim Lynch, MDT Director
- Jim Currie, MDT Deputy Director
- Tim Reardon, MDT Chief Counsel
- Loran Frazier, MDT Chief Engineer
- Lorelle Demont, Commission Secretary

### **Agenda item 1: Award projects from March 30, 2006 letting**

Projects 1 and 2 were awarded during a special teleconference on April 5, 2006. Loran Frazier reviewed staff recommendations (see attached) for the following projects:

#### **Project 3: St. Regis – East & West (Structures) [IM 90-1(142)2]**

No bids were tendered for this bridge deck repair project. Staff recommends readvertising the project at the next letting.

#### **Project 4: West Billings-King Ave Bridges [BR-IM 1010(2)]**

Three bids were tendered on this A + B project. There were no errors or omissions in the low bid which was 22.14 percent over our engineers' estimate. The item with the most cost variance was special borrow. With each load taking an estimated 45 minutes per round trip, we can justify an increase of \$1,213,100 for this item. The low bid is 9 percent over the revised engineers' estimate.

Staff recommends the A portion of the contract be awarded to Sletten Construction Company in the amount of \$12,386,373.16.

Kennedy said a group came to see me last week regarding the West Laurel Interchange project in the January 26, 2006 letting. We had received only one bid which was 83.97 percent over the engineers' estimate and staff had recommended the commission reject the bid. Kottel said it seems that MDT adjusts their estimate if we missed something and can justify the change. Lynch said we could look at our specs, but it's important we protect MDT's interests against overspeculation regarding future prices. Kennedy asked if we do the same process each time. MDT confirmed we do.

#### **Project 5: NW of Red Lodge-NW [STPP 78-1(13)6]**

Four bids were tendered. There were no errors or omissions in the low bid which was 3.44 percent under our engineers' estimate.

Staff recommends the contract be awarded to Riverside Contracting Inc. in the amount of \$1,701,921.15.

**Project 6: West of Busby-West, Busby-East & West & Jct. Sec-418-West**  
[NH 37-1(29)19, NH 37-1(34)22 & STPS 416-1(12)9]

This project was pulled from the letting and will be readvertised in the April bid letting.

**Project 7: Swan River-3 km SE of Ferndale [BR 9024(19)]**

Two bids were tendered. There were no errors or omissions in the low bid which was 0.18 percent over our engineers’ estimate.

Staff recommends the contract be awarded to Frontier-West LLC in the amount of \$1,502,436.30.

**Project 8: Sunburst – South & Shelby – North [IM 15-8(62)380 & STPP 67-1(5)0]**

Two bids were tendered. There were no errors or omissions in the low bid which was 30.59 percent over our engineers’ estimate.

This seal and cover project was previously tied to the Great Falls – Vaughn and the Pondera County Line – South projects that were in the December letting. That contract was rejected due to high bid prices. The Shelby – North project is a cold milling and plant mix overlay job with most of the work occurring within the city limits. This contract also includes an overlay of the Shelby Maintenance yard. A letter from Riverside provides more detail regarding their bid.

<i>Bid item</i>	Bid prices	Engineers’ estimate	Analysis	Adjustment to engineers’ estimate
Cover material	\$0.55 \$0.50	\$0.42	A higher price is anticipated for a smaller quantity, however, \$0.55 is high. Prices for this quantity typically range from \$0.39 to \$0.50 therefore \$0.50 can be justified for this project.	+ \$35,861
Bridge rail revision	\$125	\$60 per foot	The quantity is 571.67 feet. Looking at current bid history, we can justify \$85 per foot.	+ \$14,291
Mobilization	~23 %	13%	Mobilization for typical overlay projects range from 12% to 15%.	No adjustment
Total adjustments				+ \$50,153
Original engineers’ estimate				\$1,095,685
Revised engineers’ estimate				\$1,145,838

The low bid is 24.8% above the revised engineers’ estimate, and not within guidelines for award. Staff recommends the contract not be awarded to Riverside Contracting Inc. in the amount of \$1,430,888.00 but rather combine the project with the Shelby-East job next year.

**Project 9: N of Browning – North [STPS 464-1(10)13]**

One bid was tendered. There were no errors or omissions in the low bid which was 14.81 percent over our engineers’ estimate.

Staff recommends the contract be awarded to Schellinger Construction Co. Inc. in the amount of \$1,164,822.00.



**Project 10: JCT US 191 – West [STPP 81-1(15)36]**

Two bids were tendered. There were no errors or omissions in the low bid which was 3.71 percent over our engineers’ estimate.

Staff recommends the contract be awarded to Century Companies Inc. in the amount of \$919,728.10.

**Project 11: Pedestrian Tunnel – Gallatin Gateway [NH 50-2(48)76]**

Two bids were tendered. There were no errors or omissions in the low bid which was 0.67 percent over our engineers’ estimate.

Staff recommends the contract be awarded to A M Welles Inc. in the amount of \$625,792.90.

**Project 12: Interstate Fence – East of Galen [IM 90-3(90)195]**

Seven bids were tendered. There were no errors or omissions in the low bid which was 51.35 percent under our engineers’ estimate.

<i>Bid item</i>	Bid prices	Engineers’ estimate	Analysis	Adjustment to engineers’ estimate
Fence – Type CW	\$4.30	\$9	The quantity is 11,638 meters. We haven’t let a fencing job with this quantity of fence since March 2003 for the Drummond E & W project; the low bid for this item on that job was \$4 and the second bid was \$4.20. According to Lee of Menard Construction, they are getting their fencing material from Hills Products in South Dakota and their prices were cheaper than what he could get locally.	No adjustment
Mobilization	\$1,000	\$23,000	Staff talked to Lee of Menard Construction and he indicated that they would be mobilizing in a farm tractor and a skidder.	No adjustment

Staff recommends the contract be awarded to Menard Construction Inc. in the amount of \$80,573.40.

Commissioner Kottel moved to accept staff recommendations to award projects as presented (projects 4, 5, 7, 9, 10, 11, and 12); Commissioner Espy seconded the motion. All four commissioners voted aye.

Commissioner Kottel moved to not award project #8; Commissioner Espy seconded the motion. All four commissioners voted aye.

***Commission discussion***

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Frazier said we have a culvert east of Billings on Interstate 94 that failed due to hydrostatic pressure. The area received about four inches of rain. The culvert has an arch style, which was probably state-of-the-art in the 60s but is the same style that failed at Hatchett Creek last year. We are conducting an inventory to see how many of these we have in the state.

The culvert failure happened right near a farm access, which works well for a detour. We’ve hired JTL to overlay the on- and off-ramps, and to smooth out the cattleguards. In ten days, we intend to have plans ready and start an abbreviated advertisement period for the project.

The new pipe will take about four weeks to be delivered, so to prevent delay, MDT will purchase the pipe and provide it to the contractor. We think it will take a contractor five to six weeks to do the work. It's expected to take a total of about ten to 12 weeks until the repairs are complete.

Currie said this is the third pipe of this type to fail in the last 12 months. Another in the district is showing distress. We need to look at putting a program together to start replacing these.

Howlett asked if this culvert failure and road closure cuts off communities. Frazier said the on-and off-ramps to the farm access are providing a detour. Kennedy asked if anyone got hurt. Lynch said no, and that it couldn't have happened at a better place because of the nearby detour. Espy said she hadn't received any complaints.

Bill Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission

# Montana Transportation Commission

April 13, 2006 meeting

Montana Department of Transportation headquarters building  
2701 Prospect Avenue, Helena MT

draft

## In attendance:

Bill Kennedy, Transportation Commission Chair  
Nancy Espy, Transportation Commission Vice Chair  
Kevin Howlett, Transportation Commissioner  
Rick Griffith, Transportation Commissioner  
Deb Kottel, Transportation Commissioner  
Jim Lynch, Director –Montana Department of  
Transportation (MDT)

Jim Currie, MDT Deputy Director  
Tim Reardon, MDT Chief Counsel  
Sandra Straehl, MDT Rail, Transit & Planning  
Administrator  
Loran Frazier, MDT Chief Engineer  
Janice Brown, FHWA Montana Division Administrator

Please note: the complete recorded minutes are available for review on the commission's website at [www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary at (406) 444-7200 or [ldemont@mt.gov](mailto:ldemont@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592, or dial the Montana Relay at 711.

Chairman Kennedy called the meeting to order at 8:03 am.  
After the pledge of allegiance, Commissioner Howlett offered an invocation.

## Agenda item 1 Approve minutes from previous meetings

- a. March 1, 2006
- b. March 6, 2006 – telephone meeting

Commissioner Kottel moved to approve the minutes for the March 1 and 6, 2006 meetings; Commissioner Griffith seconded the motion. All five commissioners voted aye.

## Announcement: Jim Lynch

Lynch said he would be leaving at 10:15 am for a funeral. => He will cover items 12a and 12b (the educational items) at the next commission meeting.

## Agenda item 2: Locally funded construction project on National Highway System

*JP Road/US 93 (Signalization – City of Whitefish)*

Straehl said this agenda item requests delegation authority for the city of Whitefish to let a project to construct underground signal components as part of the US 93 JP Road/US 93 Signalization project. The funding source is a special improvement district, to be run by the city. Once the signal meets warrants, the city will be allowed to complete the above ground construction of the signal (poles, signal housings and control cabinet). MDT will then activate the signal and assume maintenance responsibility at that time.

The local government has conducted a public involvement process and there is general support for the project.

The estimated construction cost that will be city responsibility is \$200,000 and it will be competitively let to contract.

Under M.C.A. 60-2-111 (“letting of contracts on state and federal aid highways”) any reconstruction or construction project located on a designated highway or a state highway, must be let to contract by the Transportation Commission. This includes those projects on designated or state highways within cities and towns. The commission may delegate this authority to a local government.

Chairman Kennedy asked how the funding for earmarks on county or city roads is transferred to the local government. Straehl said sometimes earmarks can be transferred at the federal level to another federal agency, and we have done that historically on public lands discretionary projects where the money is transferred to a federal land management agency. For the most part, those earmark dollars are administered by the state and so consequently they have to go through our processes. In most cases, the state will administer the process. The earmark is not a grant that goes to the local government.

Commissioner Howlett moved to accept staff recommendations to delegate commission authority to let, award, and administer the contract for this project to the city of Whitefish pending concurrence from MDT’s chief engineer; Commissioner Espy seconded the motion. All five commissioners voted aye.

### **Agenda item 3: Urban bridge rehabilitation**

#### *Scott Street Overpass – Missoula*

Straehl said this agenda item requests approval to add the Missoula Scott Street bridge rehabilitation project into the program. The scope of the project includes removing the existing riding surface down to below the top row of steel in the deck, cleaning the steel, and replacing any damaged components, and restoring the wear surface with a high strength epoxy concrete. All the local planning requirements have been met on this project. MDT will administer the project throughout its development, and contract administration.

The total project cost is estimated at \$1.7 million, consisting of \$100,000 for preliminary engineering, \$1.3 million for construction and \$258,000 for construction engineering.

Commissioner Howlett moved to accept staff recommendations to approve the addition of the Scott Street Overpass project in Missoula to the program; Commissioner Espy seconded the motion. All five commissioners voted aye.

### **Agenda item 4: Flathead County CTEP projects on MDT right-of-way**

#### *East Evergreen sidewalk – Kalispell*

#### *Sam Bibler memorial trail – Kalispell*

Straehl said this item requests approval for two CTEP projects that are adjacent to MDT right-of-way. Both projects are located in Kalispell and would use the Flathead County CTEP allocation.

#### *1. East Evergreen Sidewalk – Kalispell*

This enhancement project will design and construct approximately 5940 lineal feet of six-foot wide concrete sidewalk. The sidewalk will provide a link between East Evergreen Elementary and Evergreen Junior High School. The sidewalk will run parallel to East Evergreen Drive (U6710) between Helena Flats Road (U6712) and LaSalle Road (P-1). The project begins at the intersection with Helena Flats Road within the public right-of-way and extends east to the intersection with US HWY 2 (P-1). The roads involved are two urban routes, and US 2 which is a state primary route.

The estimated total project costs are \$400,000, which consists of \$15,000 for preliminary engineering, \$370,000 for construction, and \$15,000 for construction engineering.

Including this project, Flathead County will have obligated \$2,830,725 of the \$2,950,260 made available through the CTEP program.

2. *Sam Bibler Memorial Trail – Kalispell*

This enhancement project will design and construct approximately 10,560 lineal feet of eight-foot wide pedestrian/bicycle pathway. The path will run parallel to Willow Glen Drive (U-6734/S-317). The project begins at the intersection of US Highway 93 (N-5) and extends north to the intersection of Conrad Lane. The project will be sited on existing public right-of-way as well as on privately donated easements. The preliminary planning and design engineering will involve determining easement and/or right-of-way needs.

The estimated total project costs are \$200,000, which consists of \$40,000 for preliminary engineering, \$155,000 for construction, and \$5,000 for construction engineering.

When both projects are programmed, Flathead County will have obligated \$3,003,885 of the \$2,950,260 of its CTEP allocation. However, at this time, since we have not received notification of the 2005 set-aside for CTEP, they will slightly overrun their CTEP allocation for FFY 2004. Staff will advance only the East Evergreen project until the 2005 monies are received.

All work will be in accordance with current design standards and ADA requirements.

Commissioner Griffith asked what the anticipated date is for receiving the 2005 CTEP allocation from FHWA. Straehl said next month.

Reardon asked about the second project, which will be sited on existing public right-of-way as well as on privately donated easements. Will the county be doing the deed preparation, the survey, and the determination for the scope of those easements? Straehl said as in all CTEP projects, the development is handled by the local government, with significant oversight by MDT. The lead entity for all CTEP projects is always the local government. The county will be handling the survey and deed preparation.

Chairman Kennedy asked if the privately donated easements would become public domain. Straehl said public access would have to be granted as part of the easement process, because you can't really build an enhancement project that doesn't have public access.

Commissioner Howlett moved to adopt staff recommendations to approve the addition of two CTEP projects in Kalispell to the program, namely *East Evergreen sidewalk* and *Sam Bibler memorial trail*, with the provision that the *Sam Bibler* project will not proceed to programming until FFY 2005 CTEP allocations are disbursed. Commissioner Griffith seconded the motion. All five commissioners voted aye.

Straehl asked to discuss agenda item 6 ahead of item 5 because it would make better sense.

**Agenda item 6: Rehabilitation work on Frenchtown Frontage Rd  
(Secondary 574)**

Straehl said this would add the Frenchtown Frontage Road (Secondary 574) into the secondary capital construction program for the Missoula district 2000 secondary roads prioritization list. This is the last project that will enter the 2000 list. This project would replace a previous project that has now been closed. As you recall, in January you took off the Pattee Canyon Drive/Deer Creek Road (Secondary 533) from the Secondary Highway System and replaced it with the Frenchtown Frontage Road. Frenchtown Frontage Road is now coming into the program as a rehabilitation project as part of that 2000 priority list. All the other projects on the 2000 priority list for Missoula County have entered programming. All the counties in the Missoula district were queried whether or not they would give Missoula approval to replace that old project with this one. They did concur.

The project is located north of I-90 from the intersection with US 93 near the DeSmet Interchange (RP 0) to the Huson Interchange (RP 10.96). The project preliminary scope of work will be major rehabilitation of the paved surface for 10.96 miles. The estimated total project cost is \$4.03 million which includes \$400,000 for preliminary engineering,

\$3.3 million for construction, and \$330,000 for construction engineering. The new project will be programmed for preliminary engineering for the Missoula District Secondary Roads Capital Construction Program.

Chairman Kennedy noted that if a county is going to move their priorities, they either set up a meeting or a phone conversation. The way the process worked this time is Missoula County went around and tapped people on the shoulder at convention and tried to get these things taken care of. It kind of caught people flat-footed in a lot of instances and I would hope that the counties would use more discretion when they want to change this and bring everybody to the table and at least discuss what it is, or get it out to people far enough in advance.

Straehl said I apologize; I didn't realize Missoula County had proceeded that way. Straehl said she would pass the information along to the secondary roads engineer.

Chairman Kennedy said it also generated confusion as to whether or not counties could change these priorities anytime they wanted to as long as they got the approval of everyone to do it. We're opening a big kettle of worms. Straehl said in this particular case, only about \$400 had been expended on the project, but had there been a more significant financial investment, she doubted whether the state would support a switch.

Commissioner Howlett shared his observation that there is not a well-organized process by which these counties get together and decide on priorities. He said my sense is that the process may not be clear to all the county commissioners. He encouraged some internal review of the process to see how to better facilitate the participation of the counties on an equal basis. It seems that the larger counties are somewhat dominant because they have the staffs to be able to do that.

Straehl said there is a meeting every year with all the counties during the annual MACO meeting.

Commissioner Howlett said I understand there is a process, but my personal observation is that it has some flaws and doesn't reach people as deeply as it could. It's both process and opportunity. I know that Missoula County has an infrastructure that can accommodate these kinds of things. Granite County and Lake County may not. => I'm not faulting the system, I'm just saying it has some weaknesses and asking that you take a look and come up with some recommendations to ensure the equal participation of all the counties in the district and there is no opportunity for manipulation.

Commissioner Espy said the counties for district 4 do not meet at MACO because we feel we don't have the time and there are too many distractions. We meet for a half a day after our district meeting. In our district, we have had excellent cooperation, and we have looked at corridors, and finishing corridors. That narrows our focus to completing something, rather than doing a little dab here and there. Everybody's there; everybody knows. If they aren't there, it's their own fault.

Chairman Kennedy said the process has probably gotten a bit lax over time, and suggested we formalize the process and do it at the spring MACO meetings. We have an awful lot of new commissioners that don't quite understand the process. They don't understand why there are so many years between projects in their individual counties. => He suggested putting this on the MACO agenda.

Straehl said MDT's secondary roads engineer should be the one to go on the road and do some training and explaining the process. Straehl said the counties set their priorities for the secondary road money. It is probably time to revisit their prioritizations given the turnover at the county level since the prioritizations were set. There are some benefits to the counties they may not be aware of.

Chairman Kennedy suggested there be more discussion between the counties and MDT before they nominate and put priorities in the mix. MDT's input would probably be very valuable.

Currie offered an example of a situation in Richland County. Secondary 201 is seeing a lot of break up because of oil rigs. They are pushing real hard to get funding to rebuild 201. But if you look at their priority list, it's not even their top priority. Commissioner Espy said it's understandable because the development of oil and gas has come since that priority list was developed.

Lynch said these comments are very important. There are a lot of people that don't understand how the system works. If we can facilitate the counties seeing the strategic opportunities that they may have, that would be great. I will get with Sandy before we go through the next cycle. One thing we need to remember is the increased costs in construction. It's coming to a day in Montana and other states when federal and state contribution to road programs won't be the only contributions; certain communities have some creative opportunities to enter into partnerships with the private sector to help build some of these infrastructure improvements, which are really a great benefit to their communities. Maybe it's time we look at that and help the counties come up with some different ideas.

Chairman Kennedy said the smaller counties don't have the public works people that the larger counties have. That's where MDT staff can really help by working with them and giving them some options. I'm a real advocate of leaving the decision to local control, but I'm also an advocate of working with them to guide them to make sure the right decision is the end result. I think this will help us be more efficient with the secondary road funds.

Commissioner Howlett said I'm intrigued by the director's comments about collaboration. Since he raised it, I will make it a matter of record. I don't know the ability to integrate secondary systems with highways or IRR roads, or multiple counties that are involved in a road. It seems to me that there are some roads, particularly in district 1, that cross all of these boundaries...the road may go from a state secondary to a county, to a portion of a tribal road, to another county to hook up on the other end with a state secondary. There doesn't seem to be, or has not been, at least up to this point, any singular or joint ownership of maintenance or improvements to that road. Everybody loses in this situation. I've been approached by the forest service, tribal council, and I've raised with this department the possibility of looking at a secondary road in ways other than in segments by ownership. Commissioner Howlett said he was speaking about the road from Seeley Lake to Arlee. It's a great opportunity for lots of reasons. But there are all these jurisdictional issues that would test our creativity.

Chairman Kennedy said I think we could do better in our collaboration with the counties. We would achieve some of the priorities that MDT is looking for on these roads too. I think we can get there.

Commissioner Espy said that is all of our goal. Going back to Jim Currie's remarks, when the Bell Creek oilfield was developed in Powder River County, 25 years ago or more, the county commissioner and the state allowed Bell Creek to improve the county roads. They did that on their own because it was the only way they could get the oil out. It is a great possibility to have a partnership. We will have to watch jealousy and ownership issues, though. We will run into this when we have cooperative ventures.

Currie said we love public-private collaborations, especially when there are dollars involved. I do need to say one thing: part of our process as I understand it, before we ever sit down with the counties, is to develop criteria upon which the counties can lean on in order to make their decisions. Whether or not we sit down with them and help them one-on-one to reach decisions, which I suspect is a good idea and I think we need to do that. We do develop criteria so they're not out there without a framework to help in reaching effective decisions. In my opinion Commissioner Howlett is correct; the way things are structured right now, it is somewhat segmented or lends itself to that in terms of decision-making. From the maintenance aspect, though, once a road is reconstructed and paved, or even if it isn't reconstructed, and it's paved, the state owns it. Our maintenance system is not fragmented.

Commissioner Griffith said when we go down to Anaconda in August, we will see an example of the fragmentation this whole process brings. We had a road under state care that was given to the county. Why they took it, I'll never know. It was a bad decision on their part. We can't make them make good decisions, but we can help coach them to make better decisions. The turnover at the county level is definitely one of the issues. If you take this one road, one of the worst roads in the state, the traveling public doesn't distinguish between what is state highway and county road, so we get blamed for it anyway. If you take the current funding level proposed for the next seven years, will take 50 years to get the road fixed, it needs so much work.

Chairman Kennedy said for a while after we passed that legislation and starting meeting, there was a "them" and "us". We've seen more of a cooperative philosophy in the last year or so. I agree that we need to look at other revenue sources, rather than saying we can't do it. We need to make sure that our project lists are achievable, which Pattee Canyon probably wasn't.

=> In addition to putting MDT on the agenda, Chairman Kennedy offered MDT a booth at the MACO general annual meeting for MDT's secondary roads engineer to have additional time to work with the counties.

Commissioner Griffith pointed out the county commissioners make the decisions about the secondary roads, yet the Transportation Commission has to take action on it. => He asked to be included in the process when the counties set their priorities so he's on board with what they want to do. That would make me feel better about my input towards the Tentative Construction Program. => Chairman Kennedy said Wayne Noem could probably let the transportation commissioners know when he would be in their district.

Currie said the last time I spoke to county commissioners at MACO about secondary roads, I was surprised as to the number that had no clue as to the history of the program. My thought is that we ought to have a place routinely at the MACO annual meeting that includes a historical overview of the secondary program and how we got to where we are today.

Chairman Kennedy noted that there are counties that part of MACO that don't show up. Lynch said perhaps offering this information would help increase attendance.

=> Chairman Kennedy said he would talk to Yellowstone County Commissioner John Ostlund, who is chairman of the MACO transportation committee and also on the convention planning board.

Straehl said the secondary roads engineer knows those roads extremely well, and would be a great resource for the counties at the MACO annual meeting.

Commissioner Howlett moved to accept staff recommendations to substitute Frenchtown Frontage Road for the Deer Creek project on the 2000 Missoula District Secondary Roads Priority List; Commissioner Griffith seconded the motion. All five commissioners voted aye.

### **Agenda item 5: Secondary roads capital construction program** *(Missoula district)*

Straehl said is the 2006 list of priorities for the Missoula district secondary roads capital construction program. There is a total of 40.8 miles on the list, with a total estimated construction cost of \$38.7 million. The list consists mostly of reconstruction projects.

The county commissioners from these nine counties approved the new priority list for the program by a majority vote. Powell County and Sanders County were unavailable when the vote was taken, but they were contacted prior to the voting and did not object.

Straehl said the two projects that can move forward into design involve about five miles of the Eastside Highway in Ravalli County and two miles of Willow Glen/Conrad Drive in



Flathead County. The rest of the projects can move into the program as funds become available.

Chairman Kennedy asked if secondary roads dollars could lapse. Straehl said there is the potential. When you look at the Federal-aid structure, the secondary money comes out of a big pot called the Surface Transportation Program. The STP also funds the urban program, the state primary program, and the enhancement set-aside. The lapse is possible but entirely unlikely.

Commissioner Howlett moved to accept staff recommendations to approve the following projects to the program, noting that priorities 1 and 2 can move forward. The remaining projects will be programmed for preliminary engineering when funding becomes available for the Missoula District Secondary Roads Capital Construction Program. Commissioner Griffith seconded the motion. All five commissioners voted aye.

1. S-203, RP 5.45 – 10.2, **Eastside Highway**, Ravalli County  
Reconstruction of paved surface. Estimated total project cost is \$6.375 million.
2. S-317, RP 1.02 – 3.2, **Willow Glen/Conrad Drive**, Flathead County  
Reconstruction of paved surface. Estimated total project cost is \$4.02 million.
3. S-263, RP 5.5 – 10.6, **Mullan Road**, Missoula County  
Reconstruction of paved surface. Estimated total project cost is \$6.946 million.
4. S-292, RP 0.0 – 3.0, **Whitefish Stage Road**, Flathead County (MDT request)  
Reconstruction of paved surface. Estimated total project cost is \$3.956 million.
5. S-472, RP 10.39 – 15.4, **Blue Slide Road**, Sanders County  
Reconstruction of paved surface. Estimated total project cost is \$6.555 million.
6. S-211, RP 0.0 – 9.762, **Round Butte Road**, Lake County  
Minor rehabilitation of paved surface. Estimated total project cost is \$3.32 million.
7. S-482, RP 3.36 – 7.16, **Farm to Market Road**, Lincoln County  
Reconstruction of paved surface. Estimated total project cost \$5.055 million.
8. S-348, RP 7.1 – 14.298, **Rock Creek Road**, Granite County  
Major rehabilitation of paved surface. Estimated total project cost \$2.46 million.

### **Agenda item 7: Informational items from Planning Division**

- a. TranPlan 21 2005 biennial telephone and stakeholder survey results
- b. Update on local government bonding (House Bill 451)

Straehl introduced Dick Turner for a presentation on the results of MDT's *TranPlan 21* 2005 biennial telephone and stakeholder survey results. Turner is the chief of MDT's multimodal planning bureau.

Turner said we have been doing this survey since 1994. We use it to get a feel for the pulse of public and stakeholder opinion. This is a general public involvement process; we do specific processes for each project. The process used renders the results statistically valid.

There are improvements in the public's perceived need for more facilities (city streets, other major highway, rest areas, ped walkways, interstate highways, bike paths).

The public perceives the most significant changes in bicycle and pedestrian pathways, and other major highways. I attribute that to CTEP and also a change in department's policy: we more routinely include these amenities in our projects.

Stakeholders don't like the passenger rail service and inter-city bus service, but think the Interstate highways are doing well.

Commissioner Griffith asked for an interpretation of the customer service grades given by the environmental stakeholder group. All stakeholders gave MDT the lowest grades for

responsiveness to outside ideas and concerns from customers. MDT received highest grades for keeping customers fully informed of relevant information and upcoming decisions related to the transportation system.

Commissioner Howlett asked how this fit into the timing compared to the activities of the GAIN council.

Turner said the survey was conducted in fall of 2005.

Turner said although it varies, I think we can say that there is an overall increased public satisfaction with MDT's service. The trend is positive. Obviously the results reflect geographic differences, for example, urban areas are more concerned about congestion than rural areas.

We expect to see more positive results in the coming years as programs underway have an effect. For example, the urban highway pavement preservation program should increase public satisfaction with city streets, and increased federal transit funding should increase transit satisfaction levels. To address the low levels of satisfaction with the transit program, we are in the process of reinventing our transit program, and will reflect that in a focused update to *TranPlan 21*.

Commissioner Howlett said it has been over a year since we looked at incorporating sociological and economic impacts into our planning efforts. Where are we on looking at that?

Straehl said we recently hired an economist that looks at the role of transportation in the state's economic activities. The model is called HEAT (Highway Economic Analysis Tool) and it provides detailed data and comprehensive results to help us quantify the potential economic benefits of any proposed transportation improvements. We now have a staff person who is getting the program up and running.

Straehl noted that, according to the P<sup>3</sup> analysis tool, our transportation system needs more rehabilitation work, in order to get more miles of work on the system per year. The HEAT tool mostly focuses on reconstruction jobs, because they increase capacity and reduce congestion pressures. It's a balancing act between affordable rehabilitation work, and congestion-releasing reconstruction work.

Straehl will provide more information about HEAT this fall during the development of the Tentative Construction Program (TCP).

Commissioner Howlett said he appreciates the economic analysis and is equally interested in the sociological impacts. We need to be sensitive as we plan highway projects. Lynch said we are using feasibility studies to take broad looks at projects, and evaluate sociological and other impacts. This will answer your concern.

### **Agenda item 15: Upcoming commission meetings**

The next commission meeting will be held May 25 in Helena, starting at 8:30 am.

For the June 28-29 meeting, Chairman Kennedy said he would like the commission and staff to come in to Billings on the 28<sup>th</sup>. A tour will start at 10/10:30 am, with the following itinerary: view the CTEP project at Pompey's Pillar, stop in Billings to see the Shiloh road corridor, look at a project in Laurel, drive the Beartooth highway, and end up in Red Lodge for the night. The meeting on the 29<sup>th</sup> will start at 8:30 am.

### **Communication with local government**

Cascade County Commissioner Peggy Beltrone thanked the commission for the opportunity to give a brief presentation from Choteau and Cascade Counties on the International Malting Company project. She referred to the handouts she provided, particularly the aerial view of Highway 87 and the turnoff to the new \$80 million malting facility. She said this

amazing facility is the largest value-added agriculture facility in the state of Montana, and is making a tremendous economic impact on the community. Because of interest from the public, vendors, and employees, there is increased traffic on Highway 87, notably in and out of the malting facility.

Beltrone said a tragic accident in February at that entrance reminded us all that we have scheduled a turning lane that has been approved and appropriated in the highway transportation bill. Because of scheduling, at the earliest, it will be let to contract in spring of 2008. We are here today to present information and letters from Cascade County, city of Great Falls, city of Fort Benton, interested members of the public, and the malt plant, in an appeal to see what can be done to move this turning-lane project up on the schedule.

Beltrone drew their attention to the photo sheet. She described the open highway that motorists experience after leaving Great Falls. Motorists tend to increase in speed; there is very little to let people know that there is an \$80 million facility located there, and that traffic may be turning. The facility is set back from the road quite a ways. You have to look hard to see the malting facility plant sign. Beltrone asked the commission to see what could be done to accelerate the project.

Mark Black, barley manager at the plant, said there are several near misses on an almost daily basis, both with employees, customers and delivery personnel. It is a huge safety concern for us as well as for the public. In a year's time, we generate about 3,500 to 6000 new truck deliveries, either bringing grain in or taking byproducts out, not to mention the other visitors. He appealed to the commission to ramp up the project to alleviate the safety concerns sooner.

Beltrone referred to the front page of the Great Falls Tribune and the story about the turn lane. There is strong community support for moving the project up. She said she understood there were some things they could do in the meantime, and their sheriff, Dave Castle, has offered to go out to the malt plant and do some safety traffic training with the employees to remind them to use their turn signal when going in to the facility, and when exiting onto the highway, to give motorists space and ample time because of the higher speeds in the flow of traffic. We also look to your expertise for any intermediate measures that could be made with signage or things that you folks are expert in. We are concerned that 2008 is way too far in the future to address the danger that's present at that intersection.

Commissioner Kottel offered three suggestions for immediate implementation, while waiting for construction:

- significant increase in signage regarding trucks coming onto the highway, so that there's a warning
- temporary speed reduction zone
- county enforcement of the speed reduction zone.

She noted that articles such as the one in the Tribune helps increase the community awareness of the area.

Frazier responded that we would be happy to send our traffic engineering staff to the area and see what recommendations they would have. Looking at the distance between the turnoff and the city limits of Great Falls, Frazier noted drivers react to what they see in the surrounding environment. => Commissioner Griffith asked if we could have it by the next meeting; Frazier said easily.

Currie said he appreciated Commissioner Kottel's comments. That's a good alternative for calming the traffic before we can get out there and add the turning lane. He offered a reminder that this project has a congressional earmark. Funding for earmarks doesn't show up in a lump sum; we get it in pieces over the life of the bill. When I heard about this, I asked our traffic folks to take a look at the history up there. Although I understand the situation has changed, since 2001 there's really been only two accidents up there. One was an injury, then the recent double fatality.

Commissioner Griffith asked if this was in the Redbook (Tentative Construction Program). Currie said no. Commissioner Griffith asked if it has gone through the MPO. Currie said

he would ask Straehl to comment on that, because there were certain things that have to happen at the local level first.

Peggy Beltrone said that meeting is scheduled for April 24.

Straehl said the department agrees this is an issue and the facility approach does need to be addressed. The local government pursued funding to improve this through federal earmark; the first earmark was received in 2005 for a total of \$491,900 (section 117 appropriations earmark) and then the second earmark is actually an appropriations earmark that was identified for 2006. The appropriations earmarks, when they are released, are available but they have all the same requirements as other Federal-aid monies. We anticipate that there will be available a total amount of \$1.8 million, but right now the only money that's been disbursed is the \$491,000. So the 2006 appropriations are not yet available, but you do have enough money to get into preliminary engineering. The Transportation Commission took action on this April 7, 2005 and approved this project into the program. Unfortunately, very shortly thereafter, the local Metropolitan Planning Organization (MPO) was reorganized and all of those federal requirements that are necessary in order to build a project with federal money were put on hold. The whole reorganization of the MPO was only first approved by the Governor with the redesignated MPO in January 2006. So, because of the redesignation, time was lost in moving this project forward. I think all the pieces are being put back together again, and you guys are online to now move this project forward.

Today, April 13, your technical advisory committee at the Great Falls MPO is scheduled to put this project into your transportation improvement program (TIP). That's a necessary federal requirement. The next thing that's necessary is that your policy coordinating committee (PCC) will take action and approve that TIP. That's scheduled to happen on April 24. After those actions are taken, the federal government – FTA and FHWA – will look at those documents for air quality conformity determination. That takes about a month. After that determination is completed and we get the green light, then we can program this project. We cannot program this project right now because all of the local planning processes have not aligned correctly. When all those actions have been taken, and as soon as we have federal approval, we will immediately program this project.

In programming a project, the next step will be an analysis of all the project development activities and a tentative ready date will be established. There will be a public involvement process and a design process. Let's assume we can get this into the program in June of 2006, then we will do a technical review and set a ready date. The ready date could be 2008, but it hasn't been decided yet because the project hasn't officially been programmed yet. We are really anxious to see the Great Falls Metropolitan Planning Organization take those two actions so we can proceed. We can't move forward until then. This is federal funding and these are the rules.

Beltrone asked for an estimate of construction time, given that information. Currie said 2008 is quite expedited. Frazier said it would take at least 10 months to get through all the steps in the project development process to get the plans ready for advertisement.

Chairman Kennedy said you have assurance that, once the local actions have been performed, there would be no hold up at the commission level. The system does take some time to get everything in place, and you're probably looking for some immediate results to tide you over until the project is let to contract. Loran has already initiated a request for staff to look at this, and will hopefully have some recommendations for us at the next meeting on how we can work with the county and get over the distance of time.

Currie said if right-of-way is needed for the project, that would probably add extra time, particularly if we run into a reluctant landowner. Beltrone said we will certainly be your support in the community to do what we can to encourage the speed of the project.

Straehl added to an earlier discussion about private/public partnerships. If we could have some donation of right-of-way, that would help. Mark Black said we have access through there from Montana Power. The land on the east side by that access point belongs to the

Montana Power Company and is currently leased to a farmer. Beltrone promised to “grease that wheel”.

Chairman Kennedy suggested adding some signage for the malt plant, subject to the recommendation of MDT staff in conjunction with the MPO’s public works staff. Once we get this through the MPO, through the commission here, and get it back to staff, we can get it on the fast track.

Frazier emphasized that right-of-way is a wild card, and that could certainly affect the time frame for the project’s development. There are four different landowners, and the process can be protracted depending on the landowner’s perspective on the appraisal and acquisition negotiations. He didn’t want people to walk away with the impression that MDT said the project would be ready in ten months. Beltrone said they understood that.

Choteau County Commissioner Jim O’Hara stood in support of the project. He said two of our residents were involved in that tragic accident a couple of months ago. Back when counties were identified on vehicle license plates, there were an awful lot of 19s (Choteau) and 12s (Hill County) on that road.

Commissioner Griffith asked Reardon if the commission could go out and acquire the land and donate it to the project. Reardon said we wouldn’t know the project limits until we have some design work done; we need a project “footprint” first. Then the county can get land donated or work to expedite the property acquisition process.

Commissioner Howlett said there has been a suggestion to do something interim; it seems that there is no way to speed this process up. With a variance, we probably have speeds of up to 80 mph there. With some interim measures, such as a speed limit and some signage, it can be controlled until the process allows it to be fixed on a permanent basis.

Chairman Kennedy said I don’t think anyone would be happy with this project if we speed it up but it’s not done correctly. We want to make sure the design meets local needs. I do feel that what you brought to us is a safety concern. Probably 90 percent of your problem is the people who drive that road regularly. We did an interchange project in Billings and there was a safety outcry. The gravel trucks never went over 25 mph, but area residents got tickets for speeding. They asked the speed limit to be raised for area residents, but still wanted the trucks to have the reduced speed limit. Education is a huge piece of the puzzle, and having the article on the front page of the paper is part of that. => Staff will work with the counties and report back at the next meeting.

Chairman Kennedy thanked everyone for coming, and for partnering up with us. It’s important to have all the partners at the table for this to work.

### **Agenda item 7 (continued)**

Straehl provided an update on House Bill 451 passed by the 59<sup>th</sup> Legislature. This bill allows local government bonding through the GARVEE mechanism of the Federal-aid program. The GARVEE mechanism allows for Federal-aid to be used for debt service on bonds. There was some opportunity written into state statute to allow local governments to use their Federal-aid allocation through the state’s urban program as the revenue stream to repay bond debt service. There are a number of things we will have to bring to you for approval, such as policies, boilerplates and flow charts. The purpose is to borrow ahead and accelerate projects. We are working with the Bond Council for the state to put this package together, and hope to have it in place by July 2006. There are some projects in the program right now that this might help advance, and we may recommend a pilot project before the urban bonding option is broadly adopted. I will provide additional information later this year, probably in July.

Chairman Kennedy asked if the local government, with an urban project, partnering with state on urban dollars and are able to borrow five years ahead on their allocations, but need more, can they bond the whole project? Straehl said it would be either, not both.

Currie said we would not allow a local government to bond 100 percent of their revenue stream. We will probably put some kind of cap on that. Memories are short, and if an entity bonds all their revenue for 10-15 years, that's a long time, and there is likely to be increasing pressure over the years to develop other projects while the debt service is being repaid. The second issue is the uncertainty of Federal-aid for transportation funding.

Straehl said we're looking at bonding potential in the 50 to 70 percent of the urban allocation. That would commit the repayment schedule for a longer period of time. It may still be worth it to an area to be encumbered for several years.

Commissioner Kottel asked if this is truly a bond, or is it similar to a municipal lease? I was wondering if a local community's bond rating impacts their ability to borrow. Also, how does MDT control interest rates and what are the bond costs?

Currie clarified that the primary source for securing the bond would be future Federal-aid funding. However, there is usually a need for a secondary pledge. The local government can pledge local tax authority or pay money to insure the bonds. Both of those will increase the rating. The costs of the bonds come out of the proceeds. On the US 93 projects, for us, for \$130 million in bonds, there was about \$10 million in costs that came out of the proceeds.

Straehl said in the language in the bill was passed, it says "the bonds ... may not be secured by the taxing power of the issuer." So, the only security is the pledge of the future allocation of Federal-aid. Currie said there is a mechanism to ensure that. Straehl said the other thing a local government can pledge is the state fuel tax distribution. Commissioner Kottel asked if the bonds are tax free for the people who purchase them. Straehl said yes.

Chairman Kennedy said one of the problems is the increasing prices of oil and gasoline, steel and concrete. Local communities will have to weigh the cost of the bond compared to inflation and the cost of delaying a project, and other intangible costs. But at least they have another tool available to them.

Currie said one of the things that was important to us in this piece of legislation is that any bonding under this program wouldn't go against the statutory cap. We have statutory authority to bond up to \$150 million. We have utilized \$130 million of that, and still have \$20 million available to us. We're very reluctant to bond because it eats up our future program. The Missoula district is feeling that right now. Because of the inflationary pressure, we are expecting a significant funding shortfall on the US 93 corridor and will be talking to the commission about this. We have three more project to let and probably have money for only one of those.

Currie said bonds have become quite popular across the country, and now there is discussion at the national level regarding the wisdom of this strategy. Idaho has about a \$2 billion program called "Move Idaho" and they have pledged future Federal-aid to pay for that. Oklahoma pays about 40 percent of their Federal-aid program to debt service. New Jersey's entire Federal-aid allocation goes to debt service because they've bonded their future away. I offer a caution that, while bonding enables an entity to get a lot of work done now, they will have a period of 12-15 years when work will slack off while debt is being repaid. Some of the states that followed this strategy are very regretful now that they've done so, because they have no funds available to address current transportation needs. We just need to balance it very carefully.

### **Agenda item 8: Speed limit studies**

- a. MT 37 – north of Eureka
- b. US 2 – Harlem

Frazier reviewed the speed limit studies performed on two Montana highways.

#### *MT 37 – North of Eureka*

Lincoln County Commissioners requested a reduction in the 70 mph speed limit on MT 37, beginning approximately one mile west of the intersection with US 93 and continuing east towards Eureka.

The following recommendation was presented to Lincoln County Commissioners for comment. They provided a letter concurring with the proposed 60 mph and 50 mph speed limits.

- ❑ A 60 mph speed limit beginning at station 442+00, project FAP 137 B (600 feet west of the intersection with Airport Road) and continuing east to station 484+00, an approximate distance of 4,200 feet.
- ❑ A 50 mph speed limit beginning at station 484+00, project FAP 137 B (400 feet west of the intersection with Osloski Road) and continuing east to the intersection with US 93, an approximate distance of 1,400 feet.

#### *US 2 – Harlem*

Blaine County Commissioners requested a reduction in the statutory 70 mph speed limit on the segment of US 2 that passes along the south side of Harlem. With the support of Blaine County, we are proposing the following 55 mph speed limit for the community of Harlem.

- ❑ A **55 mph speed limit** beginning at station 237+00, project F 125(9) and continuing east to station 174+00, (100' east of the intersection with Water Plant Road) an approximate distance of 6,300 feet.

Commissioner Howlett said I don't have a problem with the one at Eureka but I do have a problem with the one at Harlem. I've been contacted by people who live at the agency, about a mile east of where this speed study ended. There is a lot of population there. I would like to include the Fort Belknap tribes in this discussion. Why can't we have the speed reduced until we get past the agency where there is a lot of traffic? I would like to have this deferred until we have additional information or at least consultation with the tribe.

Commissioner Kottel asked about the lengths of the study. Frazier said we responded to a request from the Blaine County Commission for the community of Harlem. I have no problem extending the limits of the study or doing a separate study. Commissioner Howlett said speed is a major component of safety, and 70 mph past 300 homes is a pretty fast pace. Commissioner Kottel suggested that Commissioner Howlett's request be addressed as a separate request.

=> Commissioner Howlett asked MDT to contact the Fort Belknap tribes and ask them if they would like to have a speed study done for the area adjacent to the agency.

Currie reviewed MDT's process, which is typically has its genesis in a request from the local government, which can be a city, tribal, or county government.

Commissioner Howlett moved to accept staff recommendations to approve the special speed zones as requested, and asked staff to contact the Fort Belknap tribal officials to see if they would like a speed study performed for US 2 in the vicinity of the agency; Commissioner Kottel seconded the motion. All five commissioners voted aye.

#### **Agenda item 9: Letting lists**

Frazier said the lettings lists are somewhat fluid this time of year as we try and balance projects with the amount of federal dollars available. Given the financial information we were given yesterday, we have had to move the Bowman's Corner project out.

Currie said last fall when we did the TCP, the engineering division made sure the estimates were as up to date as possible. As you recall, that ended up being a somewhat painful exercise because the projects we were loading in there had estimates way too low. We set that based on what we thought costs were going to be, as well as the amount we expected to receive in Federal-aid through SAFETEA-Lu. We had the apportionment figures at that time, but we didn't yet have the obligation authority figures. We estimated our obligation authority based on historical information. However, we received significantly less obligation authority than what we have historically received. Our TCP for this year and for the next few

years, assuming Congress continues to fund the bill at the level they are, has been overstated because we were anticipating a higher level of obligation authority.

The other thing is the bids we're getting on our projects are inflated to reflect the recent increases in concrete, fuel, and steel. The result of that is, in addition to the shortage of funding we ran into, our projects are coming in 15 to 20 percent over the engineers' estimate, which is the number that's plugged into the Redbook (TCP). The net effect of all that is the money is not going to go as far as we thought it would when we set the TCP. For example, the March letting was \$3 million over what the engineers' estimate was. That was \$3 million we have to adjust for down the road. We also had a one percent recision of funding through the Department of Defense bill. We are facing a shortfall of about \$31 million for the remainder of this federal fiscal year, compared to what you saw before. In order to live within our budget, we are having to move projects out.

Bowman's Corner is still in this letting list but will have to move otherwise we will overrun by about \$9 million. If we let it this year, we will have to use advance construction (AC). However, we do not have the cash in the state special revenue fund to support advance construction (we have to pay contractors up front). One possibility is to move it to September. It probably wouldn't be awarded and the contractor given notice to proceed until October or November, and it's unlikely that much work would be done until the following year.

Frazier noted we are having a problem with getting the 404 permit on Bowman's Corner. Delaying the project will give staff additional time to work this out with the Corps of Engineers.

Frazier said the lettings for the rest of the year are fairly light: about \$19 million in April; if we take Bowman's Corner out, about \$6 million in May; about \$11 in June; approximately \$9 million in July; and about \$5 million in August. In September, some of the bonded projects will slip unless legal is able to work miracles with right-of-way. I suspect Evaro to McClure will have to be delayed until we can get the right-of-way cleared and find a funding solution. Currie said we have enough money to let one of those bonded projects but not both.

Commissioner Griffith asked how many other projects were pushed out. Currie said there are 16 projects in addition to Bowman's Corner, worth about \$43 million (\$32 million in Federal-aid) that have been moved into next federal fiscal year. We will probably let those projects in November and December.

=> Chairman Kennedy asked to see those at the next meeting, so the commission would know which projects are at stake.

Commissioner Griffith asked what projects we would have to move next year to accommodate this. Currie predicted a domino effect this fall when we set the TCP.

Currie said we are working with the delegation in Washington to get our funding made whole and at least get us up to our historical levels. This pertains to our earmarks as well.

Straehl added that AASHTO is already working on the next reauthorization. This is not just a Montana issue. The highway construction program is competing internationally for steel, cement and fuel. Every region in the country is experiencing this.

Commissioner Griffith moved to accept staff recommendations to approve the lettings lists presented for April, May, June, July, August, and September 2006; Commissioner Espy seconded the motion. All five commissioners voted aye.

### **11:30 am Delegation – US 93 and Church, Kalispell**

Ron and Brenda Proffit distributed a handout outlining several safety issues on US 93 in the Kalispell area. They identified themselves as residents of Kalispell since the 1960s, and expressed appreciation to the commission for hearing them today.



Pointing to a map of US 93 between Kalispell and Whitefish, Brenda noted the four-lane transitions to two lanes about two miles north of the Kalispell city limits, denoted in a gray circle on the map. That portion of US 93 is scheduled to be improved; originally it was with one project, now that has been split into two projects.

She also noted safety concerns in the area near the new high school outside of Kalispell on W Reserve Drive, which is near a major retail area. She said they were interested in getting as much expansion as soon as possible to improve safety. Getting off Reserve, which is the major east-west connection, is getting to be a nightmare.

Plus, Kalispell is looking to annex clear up to Church Drive. Ron said there's a riverfront project – 3800 acres – that's probably going to be approved by this fall. There would be another 600 lots on the Stillwater proposed by the Aspen Enterprise Group out of Colorado. They bought 800 acres of property on the west side of the high school.

Brenda noted that the Majestic Valley Arena has had over a million visitors since it opened five years ago. They are located on a two-lane section of US 93. The ingress and egress for large events there can be a nightmare. The Profitts noted the private arena is used for equestrian events, monster truck events, graduations, boxing matches, etc. It is a main civic area that serves the valley.

Commissioner Howlett said it looks like those developers are going to have to set aside some money for all those roads! Brenda said there obviously need to be more roads in the county. West Reserve is important because there is so much development but also because it takes you to Highway 2. Development is coming; the valley has been discovered. We can't change that but it would be nice to have the infrastructure in place so you can at least get around.

Currie said there are two projects in that location. We split the project because of funding and right-of-way issues. The north part of Church Drive is in the July letting. Adding the interchange at this date would delay this project. The second phase is expected in about two years. One thing we could look at is splitting the interchange portion off into a third job, although staff has not explored this fully yet.

=> Chairman Kennedy asked for a report back. Currie said it would probably not be next meeting.

Commissioner Kottel asked if there is a disconnect between the communities in terms of planning. Why do they approve subdivisions before the infrastructure is in place?

Chairman Kennedy said part of it is a lack of understanding of the process, which can lead to a lack of involvement.

Commissioner Kottel asked about the MPO requirement for a population of 50,000. It is a federal requirement. She asked if there would be room for state legislation that would have something parallel to an MPO for the smaller communities so that there is coordinated activity and that coordinated activity is required? Currie said there already is.

Straehl said there is a contract that's just been let in Kalispell with Peccia & Associates to do a transportation plan update. The department supports communities: every community has the opportunity to come to us and ask for resources to do a local transportation plan. We have funding to provide support for transportation plans in communities of any size, but we specifically have agreements in place with local government officials for 5,000 and greater. Even if you're not an MPO, you have access to support to do transportation plans. The one for Kalispell is taking off. The last time they did a transportation plan, was at the same time they were doing the environmental impact statement for both the bypass and the US 93 corridor between Whitefish and Kalispell. So this is really for the next generation after these improvements. There have been some communities in Montana that have been very proactive in trying to get funding from developers to help pay for the underlying infrastructure that the developments will be affecting. It's a very important proactive step

that a local government has to take, even if it's not always popular. Funding can be used for general infrastructure, schools, police, and fire.

Chairman Kennedy noted the Gallatin County Commission recently denied a 200-house subdivision because the developer would not help improve the road.

Frazier spoke to Commissioner Kottel's question about smaller communities without a formal MPO. An MPO usually has two basic committees, a technical advisory commission (TAC) and a policy setting committee, such as Missoula, Great Falls and Billings. For some smaller communities, there is a combined transportation advisory committee (TAC), which is made up of a member of the Department of Transportation, the city, and the local government. Kalispell has one of these TACs and they have dealt with a lot of those issues. In answer to some of the things going on in western Montana, Kalispell is growing, the Bitterroot Valley is growing, faster than we are able to obtain federal dollars to improve the infrastructure. We have one county that would approve any subdivision request, and then turn to MDT and present it as being our problem. That is not Flathead County. There has to be coordination between us, the local government and the developer. There needs to be development of parallel county roads to help spread the traffic out.

Chairman Kennedy said we also need more coordination on requests for earmarks. If a county moves forward without coordinating with MDT, they may not get enough money to finish the project, such as the one that's been languishing for the last eight years in Billings. Commissioner Espy agreed.

Commissioner Howlett said whether we split this out into three projects, or whatever, what's in front of me is what we've already determined to be priorities... what we've already went through in the analysis of safety, we've already looked at crash data, and your recommendation to us each year in the fall for meeting the highest priorities. Now we are looking at having to pare things back because of inflationary costs in steel, concrete, labor, etc. I think we need to be really honest with ourselves in terms of those projects that have been determined to be a priority. Long before I was here on the commission, priorities were established that I accepted. The fact that people present to the commission is well; we get their personal perspectives, and we take the time to listen to that. But I don't think anyone ought to be misled that these projects can be turned around because they are presented to the commission, and that, as was the case this morning, it wasn't turned around, but we put the state on a fast track. But someone said it was a 2008 date, and the reality is there was no date on the project. And so, I want to make sure that as we deliberate that we not lose focus of things that have been in the pipeline for six or seven years and are now coming to fruition. I believe we should stay focused on those priority things that cannot be moved back without jeopardizing the public safety. I would like to be able to say we'll figure out a creative way to do these things, but the reality is, where does it fit in the priorities that were established years ago?

Commissioner Kottel said in order for us to live in a civil society, it takes unbelievable civic involvement. I publicly commend the Proffits for the work they've done, and for their taking the time to come down here and spend a day with us, and for looking at these issues in a very logical, rational way, and for putting this in front of us. She thanked the Proffits for their level of civic involvement.

Commissioner Griffith asked the Proffits if there was a coordination problem in the area that required them to be here. In other words, why aren't we seeing the units of local government here making this presentation for you? Brenda said I'm not sure; I think everything is happening so fast, it's hard to be really focused. There was a tri-city planning committee at one point, but that got broken down. Now each entity has its own planning office. Maybe that's part of it. Commissioner Griffith said I understand the frustration. Chairman Kennedy asked it if was tougher to work with split planning offices. Brenda didn't know, but did note it can be challenging to come to agreement when there are more people in the room.

Commissioner Espy echoed Commissioner Kottel's sentiments. Chairman Kennedy thanked the Proffits and for getting the issue on the docket.

Straehl encouraged the Profitts to get involved in the transportation plan update in their area.

### **Agenda item 10: Certificates of completion for February 2006**

Commissioner Kottel moved to accept the certificates of completion for February 2006; Commissioner Griffith seconded the motion. All five commissioners voted aye.

### **Agenda item 11: Project change orders**

- a. January 2006 = \$68,704.15*
- b. February 2006 = \$14,510.09*

Frazier noted the revised change order amount is \$98,098.20. The contractor has found a way to produce materials that meet specifications and is no longer eligible for a price deduction.

Commissioner Howlett asked about the bridge in Arlee. A lot of local people are asking about when that project will be completed. Frazier noted there are timing restrictions on working in the water because of the fish and the endangered species act. The other issue is steel on Federal-aid projects must be made on the USA. The origin of the steel that was delivered could not be identified. There was a seven-month delay while the steel was reordered.

Commissioner Griffith asked about the safety improvements on Old US 3, on page 17. There was a \$37,301.04 change order for asphalt cement. Frazier said the oil was not performing and did not pass test results. We changed to a higher grade of asphalt.

Commissioner Griffith moved to accept staff recommendations to approve the change orders for January and February 2006 as presented; Commissioner Espy seconded the motion. All five commissioners voted aye.

### **Agenda item 12: Educational presentation**

#### *Secondary Roads*

Currie referred to the highway system map. The secondary roads are represented in green. The secondary system is classified to a large degree according to the use on it (number of vehicles).

#### *History*

Starting with ISTEA, in the early 1990s, the Federal-aid program no longer recognized the secondary or urban systems. The state of Montana then created those through state statute. The funding allocation for the secondary system is also in state statute by formula. The system in the early 90s worked similarly to the urban system. Each county got an allocation for their secondary system. Depending on how they fell in that formula, some counties got quite a bit of money, some counties got a very small amount. What the counties would do is save their allocation up until they had enough money to let a project. In order to help them with that, the commission had a policy that allowed them to borrow ahead for five years. The problem with that mechanism was that some of the smaller counties never got projects, whereas some of the bigger counties were able to move projects. There wasn't an equal allocation or usage of money around the state. The other problem was this saving action conflicted with our requirement to spend all our federal money every year.

The third problem we had was the counties were responsible for all maintenance on the secondary system. When we did let a project with a local government on the secondary system, by federal rule we had to require the counties to sign a maintenance agreement. A lot of local governments did not have the money to do preventative maintenance on those systems to ensure we got the necessary life out of the project.

In 1998, we invited the Montana Association of Counties (MACo) and the League of Cities and Towns to talk about a new way of doing business. The League declined the request, but MACo did come to the table. We reached an agreement that is still in place today.

Once we had the agreement, we took it to the legislature and it was put into law. Senator Swysgood out of Dillon carried the bill. MACo supported the bill and it went through virtually unopposed.

#### *Process*

The funding allocation doesn't go to individual counties. The equivalent goes to the financial district. The priorities are set in the financial district by a team consisting of a county commissioner from every county in that financial district, MDT's secondary roads engineer, and MDT's district administrator.

We get together with each selection team every year and work with them to come up with a list of criteria which they use in establishing their priorities. Another important element of this legislation was that MDT would assume maintenance responsibility for all paved secondary roads. The definition of "paved" is plant mix put down with a paving machine; it precludes double shots. At that time, MDT picked up maintenance on a vast majority of the secondary system. That costs us about \$15 million per year to do that. Local governments were relieved of that cost and maintenance responsibility. We could also ensure that the preventative maintenance of the system was put in place.

Maintenance includes winter maintenance, plowing, mowing, sign cleaning and replacement.

Every year as secondary highways are reconstructed or become paved, we go to the legislature to ask for the necessary resources to assume maintenance responsibility for those.

We saw this as a win-win for MDT and local governments. One, we can more effectively manage the Federal-aid authority. Two, all the counties, somewhere in time, get a project. They have to wait their turn, but they all get a project. Three, a portion of the secondary funds goes to MDT to finance preventative maintenance on the system. This was a very important element for us, because by the time you do reactive maintenance you've already lost your road. Now we have an active preventative maintenance program on the secondary system and a mechanism for maintaining those improvements.

Chairman Kennedy said the department has discretionary power up to \$200,000 in the district for maintenance. Anything over \$200,000 has to go back to the whole group and they vote on it. It's worked very well.

#### *System changes*

Currie said we get local governments asking for roads to come onto and off the secondary system. In the past, if a local government has asked for miles to be added to the secondary system, the commission has asked the local government to remove an equivalent number of miles from the system. I recall two notable exceptions, Pryor Road in Billings and Milk Creek Road in Anaconda. There were different reasons for both of those as to why the commission did that.

#### *Discussion*

Chairman Kennedy asked about Shiloh Road; it is an urban route, is it also a secondary? Straehl clarified that when the road moves outside the urban boundary, if it provides a connecting link, it would be on the secondary system. Chairman Kennedy said the question keeps coming up, if MDT and the Transportation Commission makes decisions about the speed limit, the ingress/egress, etc., is the city going to maintain it? Is the county going to maintain it? The city raised the idea that we need to own the land underneath. Nearly all county roads are on easements. If we go to that extent, and we make all the decisions on a road, shouldn't we be maintaining that road too? The question keeps coming up.

Currie said it's my understanding that the road is owned by the state. The question is, do we have the ability to turn that land over to the city of Billings. The answer to that right now is

no. In our legislative package for the next session, we have a bill that would allow us to quit-claim that property, so we're working on a solution.

Chairman Kennedy said why would we do that if make all the decisions on the road?

Reardon said as part of the transfer, the local government would be required to maintain the road to the state standards. There will be reversion contingencies if the local government doesn't meet those standards.

Chairman Kennedy asked if all the decision-making will revert to the local government. Reardon said it comes down to eligibility for Federal-aid. With this proposed legislation, the devil is still in the details.

Straehl referred to the environmental assessment currently underway for Shiloh Road. That is a federal process with federal money. That federal process includes design details that are fairly explicit once you get into the record of decision. Complying with the decision document is important for ensuring future Federal-aid eligibility. Last year, the commission set aside money for urban preservation funding. In the management of the whole Shiloh Road corridor, if it's not consistent with the decisions that are made in the federal EA process, it's going to be very difficult for urban preservation monies to be expended on that road in the long term. So, it's in everyone's best interests to ensure the investment is consistent with the decision document.

Commissioner Espy said under the secondary roads program, the county also assumes maintenance of the right-of-way. Apparently we are supposed to send a review report once a month to DEQ regarding storm water runoff. We are concerned about fulfilling our responsibilities, and would like to know there is a list of all the maintenance requirements. => Frazier will ask Jean Riley, MDT's environmental services bureau chief, to contact the county road supervisor and provide information.

### **Agenda item 13: Commission discussion**

#### *Culvert collapse in district 5*

Frazier said we need a formal action authorizing design and letting of this project. We can tell you why we think the pipe failed and what we are proposing to do to fix it. He referred to a graphic showing the existing pipe (arch style) compared to the proposed pipe (round). The area received four inches of rain, and saturated soils pushed in on the pipe, and it buckled.

This particular design was used in the 60s to early 70s. We've had three failures recently. This culvert collapsed without there being any warning signs.

Frazier dispelled the rumor that a bump from a vehicle driving through the pipe caused the failure.

Currie said we have applied for ER funding but are not sure if it's eligible or not.

Brown clarified that the needs for emergency relief at a national level far outweigh the available funds. In fact, we still have not reimbursed Montana for the Beartooth repairs. The emergency relief program is for widespread damage, which this doesn't fall under. It would fall under "catastrophic failure" which needs to be from an external cause. There is also a dollar threshold involved. We are making an eligibility determination but it's a moot point because there isn't money available. We've advised the department that this is eligible for normal Federal-aid.

Currie said this will come out of the normal allocation and will cause a shortage somewhere else. We're anticipating the repairs will cost between \$850,000 and \$1 million. We are in the process of inventorying how many of these style culverts are out there. We are also investigating what type of retrofits we can do to shore those up.

Commissioner Griffith asked about the expected life of culverts. Frazier said we aim for 75 years. Currie said it depends on the soil. Eastern Montana has hot soil.

Straehl said the commission authorized an investigation of culverts in the Glendive district at their March 1, 2006 meeting.

Currie said the commission has set aside \$10 million starting in fiscal year 08 to deal with the steel bridge issue on the interstate. These aren't bridges, but I may recommend some of that money may need to be used on culvert repair and replacement. Commissioner Kottel suggested the commission take another look at the \$10 million in terms of our strategic plan and vision. Given the increase in project costs, we may need to readjust.

Currie said bracing, if it's an option, may impact the usage by farmers.

Brown recognized the work of the department to get the interstate open as quickly as possible.

Commissioner Griffith moved to give MDT the authority to put together design plans for a culvert repair project underneath Interstate 94 about five miles west of Hysham near Box Elder Creek, to advertise the project using whatever timeframes the department deems necessary and appropriate, and to prepurchase material for the repairs; Commissioner Espy seconded the motion. All five commissioners voted aye.

There will be an expedited award following a three to four day advertisement period. A conference call will be scheduled to take action on the bids, to allow for discussion.

#### **Agenda item 14: Public comment**

None presented.

#### **Miscellaneous**

Straehl distributed the 2006 state highway maps.

The meeting adjourned at 1:02 pm.

Bill Chairman Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission

## Montana Transportation Commission

May 4, 2006 – Telephone Meeting

draft

For additional information, please call (406) 444-7200 or visit the commission's web site at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml).  
For the hearing impaired, the TTY number is (406) 444-7696 or 1-800-335-7592, or call the Montana Relay at 711. Alternative accessible formats of this document will be provided upon request.

Note: => indicates follow-up is needed.

The Montana Transportation Commission met via conference call on May 4, 2006.  
The meeting was called to order by Chairman Kennedy at 3:35 pm with the following participants:

- Bill Kennedy, Transportation Commission Chair (District 5)
- Nancy Espy, Transportation Commission Vice Chair (District 4)
- Rick Griffith, District 2 Transportation Commissioner
- Deb Kottel, District 3 Transportation Commissioner
- Jim Lynch, MDT Director
- Jim Currie, MDT Deputy Director
- Tim Reardon, MDT Chief Counsel
- Mark Wissinger, Construction Engineer
- Jim Walther, Preconstruction Engineer
- Ryan Dahlke, MDT District 5 Design Project Manager
- Lorelle Demont, Commission Secretary

### **Culvert repair – West of Hysham Interchange [IM 94-2(32)63]**

Mark Wissinger presented information regarding the emergency culvert repair project on Interstate 94 west of Hysham. There were four bidders. The low bidder was Four Beers, Inc. of Columbus. There were no errors or omissions in the low bid which was 9.91 percent under our engineers' estimate.

Commissioner Kottel moved to accept staff recommendations to award the project contract to Four Beers, Inc. in the amount of \$1,030,555.25; Commissioner Griffith seconded the motion. All four commissioners voted aye.

The commission thanked staff for their work to get the repair project underway so quickly. Lynch echoed the sentiment.

### **St. Regis – East & West (Structures) [IM 90-1(142)2]**

This bridge deck repair project received no bids at the March 30 letting and was readvertised in the April 27 letting with provisions for an expedited award and notice to proceed.

There were two bids. The low bid was 32.9 percent above the engineers' estimate. After talking with potential bidders following the March letting, staff determined that contract time was a concern because of the location of the project, and also that most bridge contractors were at or near capacity. The project was revised for the April letting by removing the A + B bidding, increasing contract time and revising the sequence of operations.

Wissinger noted that items with the most dollar variance are for the following: remove concrete pavement, latex modified concrete, concrete – class SD, reinforcing steel – epoxy coated, map & drill cracks, and mobilization. He reviewed those items and noted where we could justify amending the engineers' estimate:

<i>Bid item</i>	Bid price	Engineers' estimate	Analysis	Adjustment to engineers' estimate
Remove concrete pavement	\$60 and \$18.75	\$25	The bid quantity is 12,901 square meters. We don't have any bid history for this large a quantity. Prices received for smaller quantities range from \$25 to \$36. We cannot justify any adjustments to this item.	No adjustments
Concrete – latex modified	\$2,000 and \$785	\$800	This bid item was awarded at \$700 in the Bozeman Area Seismic Retrofit project, let in February. The quantity on this job is 448 cubic meters and the quantity for the Bozeman job was 980 cubic meters so we would anticipate a high price for a smaller quantity but we have never received over \$1,250 for this item. \$2,000 cannot be justified.	No adjustments
Class SD concrete	\$650	\$550	The quantity for this item is 3,292 cubic meters. The largest quantity in recent bid history was for 1074 cubic meters on the Bitterroot – North of Hamilton job let in January 2005; the awarded bid for this job was \$425. Given the recent increases in the concrete market, \$600 can be justified for this job.	+ \$164,600
Epoxy coated reinforcing steel	\$3.50 and \$2.14	\$2	The quantity for this item is 495,929 kg and we have never let a job with a quantity this large. On the West Billings – King Avenue bridges that was let in March, 2006 we had a quantity of 90,612 and the awarded bidder price (the awarded bidder was Sletten) was \$3. The awarded bid price for the Big Horn River Hardin job for a quantity of 80,166 kg was \$1.63. Typically for a larger quantity you receive a lower price, however we do not show any bid history with an awarded price of \$3.50. Recent bid history for larger quantities have been ranging from \$2.50 to \$3. Given the large quantity, \$2.50 can be justified for this project.	+ \$247,964.50
Map and drill cracks	\$2,000 and \$365	\$95	This item has only been used on one job, let in April 2004. The bids on that job ranged from \$50 to \$175. If we factor in some inflation, we can justify adjusting the engineers' estimate to \$200 for this item.	+ \$10,920
Mobilization			This increase reflects the adjustments made above	+ \$115,000
Total adjustments				+ \$538,485
Original engineers' estimate				\$12,037,667.22
Revised engineers' estimate				<b>\$12,576,151.72</b>



The low bid is 27.2 percent over the revised engineers' estimate. Although we can justify some revisions, we can't justify sufficient changes for the bid to be within guidelines for award. Staff recommended the commission reject the bids.

Commissioner Kottel moved to not award the project; Commissioner Espy seconded the motion. All four commissioners voted aye.

The call concluded at 3:50 pm.

Bill Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission

## Montana Transportation Commission

May 8, 2006 – Telephone Meeting

draft

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For the hearing impaired, the TTY number is (406) 444-7696 or 1-800-335-7592, or call the Montana Relay at 711. Alternative accessible formats of this document will be provided upon request.

Note: => indicates follow-up is needed.

The Montana Transportation Commission met via conference call on May 8, 2006.  
The meeting was called to order by Chairman Kennedy at 10:05 am with the following participants:

- Bill Kennedy, Transportation Commission Chair (District 5)
- Nancy Espy, Transportation Commission Vice Chair (District 4)
- Rick Griffith, District 2 Transportation Commissioner
- Kevin Howlett, District 1 Transportation Commissioner
- Jim Lynch, MDT Director
- Jim Currie, MDT Deputy Director
- Tim Reardon, MDT Chief Counsel
- Mark Wissinger, Construction Engineer
- Jim Walther, Preconstruction Engineer
- Ryan Dahlke, MDT District 5 Design Project Manager
- Lorelle Demont, Commission Secretary

### **Agenda item 1: Award projects from April 27, 2006 letting**

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Mark Wissinger presented information regarding the bids received for the following projects:

#### **Project 1: West of Busby-West, Busby-East & West & Jct. Sec-418-West**

Project NH 37-1(29)19, NH 37-1(34)22 & STPS 416-1(12)9

Two bids were tendered. There were no errors or omissions in the low bid which was 2.1 percent over our engineers' estimate.

This is the second time that Jct. Sec-418-W has been advertised; only one bid was received at the February 23, 2006 letting and it was 104.85 percent over the engineers' estimate. At the commission's March 6 teleconference, staff recommended not awarding project STPS 416-1(12)9 Junction Secondary 418-West, and rather tie it to another future area project in hopes of receiving lower bid prices.

Staff recommends the tri-project contract be awarded to Riverside Contracting Inc in the amount of \$3,362,963.08.

#### **Project 2: Sidewalks - Great Falls, 3rd St Nw - Gtf & 57th-2nd Ave N/10th Ave S-Gtf**

Project CM 5299(60), NH 101-1(2)0 & NH 102-1(2)8

One bid was tendered. There were no errors or omissions in the low bid which was 4.72 percent over our engineers' estimate.

Staff recommends the contract be awarded to United Materials of Great Falls Inc. in the amount of \$2,282,744.96.

#### **Project 3: Pondera County Line-South & Great Falls-Vaughn**

Project IM 15-7(31)343 & IM 15-5(112)282

Two bids were tendered. There were no errors or omissions in the low bid which was 11.89 percent under our engineers' estimate. These projects were originally tied to the Sunburst – South & Shelby – North projects. Because of high bid prices, the projects were shuffled and readvertised.

Staff recommends the contract be awarded to Pavement Maintenance Solutions in the amount of \$1,299,899.92.

**Project 4: 6th St Nw-16th To Smelter-Great Falls [Project STPU 5201(16)]**

Two bids were tendered. There were no errors or omissions in the low bid which was 5.88 percent under our engineers' estimate.

Staff recommends the contract be awarded to United Materials of Great Falls Inc. in the amount of \$1,237,968.62.

**Project 5: 10th St N-Great Falls [Project NH 104-1(2)1]**

One bid was tendered. There were no errors or omissions in the low bid which was 32.33 percent under our engineers' estimate.

Staff recommends the contract be awarded to United Materials of Great Falls Inc. in the amount of \$452,336.60.

**Project 6: Sprinkler-Harrison Intch-Butte [Project IM 15-2(86)128]**

Three bids were tendered. There were no errors or omissions in the low bid which was 14.51 percent under our engineers' estimate.

Staff recommends the contract be awarded to Becker Landscaping & Design Inc. in the amount of \$169,458.84.

**Project 7: 2001 – Turn Bay – E of Townsend [STPHS 14-1(19)2]**

One bid was tendered. There were no errors or omissions in the low bid which was 23.2 percent over our engineers' estimate. Staff recommends the commission not award the contract to Helena Sand & Gravel Inc. in the amount of \$590,087.63 but rather tie the work to the Townsend – E project slated for listing in the December letting.

**Project 8: 2001-Electrical-Jct Sec-227 [Project STPHS 60-2(68)87]**

Two bids were tendered. There were no errors or omissions in the low bid which was 16.28 percent over our engineers' estimate.

Staff recommends the contract be awarded to Montana Lines Inc. in the amount of \$44,978.50.

Commissioner Griffith moved to accept staff recommendations to award project 1, 2, 3, 4, 5, 6, and 8; Commissioner Espy seconded the motion. All four commissioners voted aye.

Commissioner Howlett moved to not award project 7; Commissioner Griffith seconded the motion. All four commissioners voted aye.

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**Commission discussion**

The commission's next meeting will be held Thursday, May 25 in Helena, starting at 8:30 am. Lynch said he would distribute the hearing report from Hearings Officer Jim Scheier to the commission prior to the meeting. At the meeting, Lynch will explain the rules change and make a recommendation.

Howlett said he would be in Browning on May 25 but would like to be part of the discussion. Kennedy asked if a vote would be taken at the meeting. Reardon said the commission has until early August to take action. If there is no action, the proposal expires. He further noted that Scheier put a note denoting attorney-client privilege on the memo to the Transportation Commission. Reardon recommended removing that to allow for staff and public distribution.

Commissioner Griffith moved to waive the claim of privilege; Commissioner Howlett seconded the motion. All four commissioners voted aye.

Howlett reiterated his desire to participate in the discussion on this item, and proposed allowing additional time for the decision. Kennedy said we would be on the road for the next two meetings, which are within the six-month time frame. Lynch said Helena would be a good neutral ground for holding the discussion. The commission would not be conducting a public hearing on the matter; that's already been done. However, public comment would be okay.

Reardon said it's important to be clear that the Transportation Commission's intent will be to take formal action on the rules, to adopt, reject or modify them. He suggested a time limit on the discussion. Lynch said we don't want to rehash the hearing and recommended the commission limit public testimony to new information that hasn't already been provided in the hearing transcript or in the hearing report. He said we would schedule the discussion around Howlett's 11 am to 1 pm commitment.

Griffith asked if we would have the hearing comments in our hands. Lynch said yes.

The call concluded at 10:29 am

Bill Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission

# Montana Transportation Commission

May 25, 2006 meeting

Montana Department of Transportation headquarters building  
2701 Prospect Avenue ~ Helena, MT

draft

In attendance:

Bill Chairman Kennedy, Transportation Commission Chair  
Nancy Commissioner Espy, Transportation Commission Vice Chair  
Kevin Commissioner Howlett, Transportation Commissioner  
Rick Commissioner Griffith, Transportation Commissioner  
Deb Commissioner Kottel, Transportation Commissioner  
Jim Lynch, Director –Montana Department of Transportation (MDT)  
Jim Currie, MDT Deputy Director  
Tim Reardon, MDT Chief Counsel  
Sandra Straehl, MDT Rail, Transit & Planning Administrator  
Loran Frazier, MDT Chief Engineer  
Mike Duman, Assistant FHWA Division Administrator  
Ted Burch, FHWA Program Development Engineer  
Lorelle Demont, Transportation Commission Secretary

Please note: the complete recorded minutes are available for review on the commission's website at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary at (406) 444-7200 or [ldemont@mt.gov](mailto:ldemont@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

Chairman Kennedy called the meeting to order at 8:05 am.

After the pledge of allegiance, Commissioner Howlett offered an invocation.

Chairman Kennedy asked if there were any changes to the agenda. Lynch said we have received a request for an outdoor advertising permit. We denied that and through the rules and requirements, they have a right to ask you to appoint a hearing examiner to hear their case. We ask that you appoint a hearing examiner as requested. Reardon said this falls under the commission's administrative functions. Unless the commission wishes to conduct the hearing in person, you need to appoint a hearing officer who will conduct the hearing and prepare a written recommendation for you. This is the standard process under the administrative procedures act. I think the appointment is an appropriate thing; Lamar is entitled to a hearing.

## **Appointment of a hearings officer – LAMAR Advertising**

Reardon said by way of background, we received an application for a sign upgrade to be located in Billings from Lamar Advertising in Billings. Their proposal was to upgrade an existing sign face to electronic LED message board. The permit application was reviewed by the department's outdoor advertising staff and the permit was denied. The denial was based primarily on an existing rule that prohibits such boards. The department thought that, in the absence of rules that would establish sideboards on how bright a sign could be, content of the message, the department denied the permit. Under the Montana Administrative Procedures Act, they appealed the decision to the commission. The commission has the jurisdictional authority over the outdoor advertising at the administrative level. They are entitled to a hearing. The request we have at this time is to appoint hearings officer to conduct a hearing on the Lamar outdoor advertising application.

I can't tell you what their theory is, but I assume that they believe under existing state law, that they are entitled to upgrade an existing sign to an LED board. Whether that's accurate or not, I don't know. If it's true, then perhaps the existing rule prohibiting it won't stand

legal muster. I don't know that. But that's I think the sum and substance of what this appeal is going to ultimately have to be decided. They're appealing it under existing law. We have contacted the office of the Attorney General, who is by statute, the entity to whom you go first for a hearings officer. We have the name of hearings officer, and, with the approval of the commission, I have an order for the commission chair to sign.

Commissioner Griffith moved to appoint a hearings examiner to hear this case; Commissioner Kottel seconded the motion.

Commissioner Kottel asked what the process is to exhaust administrative remedies. Reardon said after the hearing, a report will be brought back to the commission to adopt, modify or reject the information, along with a recommendation from Director Lynch. From there, they can appeal to the district court.

The motion passed unanimously.

## **Agenda item 2: Wetland Credit Purchase**

Selkirk Wetland Mitigation Site

Straehl said this agenda item requests commission approval to purchase 50 completed wetland credit acres.

The proposed site is located directly adjacent to the *Wheatland County East* project along US Highway 12, approximately eight miles west of Two Dot. Total project cost is \$1.14 million, consisting of \$1.125 million for the purchase of 50 wetland credit acres and \$15,000 for preliminary engineering for MDT to conduct the legal review of agreements and conservation easements and for Environmental Services to prepare environmental documentation.

The credits will apply possibly to the *Wheatland County Line East* project (CN 4889), *Shawmut West* (CN 4075), and *Checkerboard to Martinsdale* (CN 4803). The actual number of credit acres will vary depending on when these are purchased in the development of those projects.

Commissioner Howlett moved to accept staff recommendations to approve the addition of the wetland credit purchase project to the program; Commissioner Espy seconded the motion. The motion passed unanimously.

## **Agenda item 3: Culvert Replacement**

*Culvert-NE of Miles City-Glendive District*

Straehl said MDT is requesting commission approval to replace an existing culvert on Interstate 94 located at reference post 141.74 in the Glendive district.

The culvert has a bow in it and is showing signs of movement. It's deemed by those who inspected it that something needs to be done in a fairly expeditious manner. The project will be tied to the Miles City E&W (UPN 5916) overlay project for construction.

MDT proposes using Interstate Maintenance (IM) funds for the project. The proposed project's total estimated cost is \$565,000, including \$15,000 for preliminary engineering, \$50,000 for construction engineering and \$500,000 for construction.

In order to maintain fiscal constraint, the Glendive District is proposing to move the Fallon-NE project (UPN # 5719) from FY 2007 into FY 2008.

Commissioner Espy moved to accept staff recommendations to approve adding the projects presented to the respective programs; Commissioner Griffith seconded the motion.

Commissioner Espy said this is something that the department decided to do to be certain we don't run into the same effect that we'd had in our district before, and now a second culvert in the Billings district. I understand it's the same type of a culvert, and the state is inspecting many of the culverts now and will be marking these so that they are replaced.

Currie asked Frazier if we had exhausted all remedy in terms of bracing the culvert. Frazier said we have braced it but still believe it necessary to expedite the replacement. Currie asked about the time frame for the replacement, and Straehl said it would occur in 2007.

Currie asked if we had completed the survey of this design of culvert elsewhere on the interstate...do we know if we have very large potential for natural problems here? Frazier said we have 14 other culverts in eastern Montana that have the same type of design. We are going to be examining those this summer. Through the consultant selection board, we have selected a structural consultant to come and train our people about these pipes this summer.

Lynch asked if we've visited other states and areas that have used this culvert to see what they're doing. Frazier said I've discussed this with the chief engineers from other states at the AASHTO meeting; I also sent them the information. Nebraska has none; South Dakota has one; North Dakota has zero; Wyoming has none for similar soil conditions. I've not had a response from Idaho. We appear to be the only state that has this particular design, built in the 1960s. We've had three fail in the last year. The last one went without warning; when we inspected it, it looked good.

Chairman Kennedy asked if this 14 was out of the 200 we talked about last time. Frazier confirmed we have 14 of this exact design on I 90 and I 94 that we've identified. Chairman Kennedy asked if it was a structural problem or the way it was designed. Frazier said we have several theories, but we're hiring an expert. Chairman Kennedy said it sounds better to replace the 14, rather than 200. Frazier said Great Falls district has 2, one on highway 200, different design but similar issues; Missoula district has identified one near St. Regis, Butte district has many large, multi-plate culverts south of Dillon, most of those appear to be in good shape.

Commissioner Griffith asked if soil condition is a contributing factor. Frazier said that is one of the theories, that some of the soils are corrosive to zinc and steel. Some of it might just be the design and shape of the culvert. They discontinued use of it nationwide in 1972.

Frazier said the most plausible explanation we have for the most recent culvert failure at Hysham is that the median filled up with water, caused the soil hydrostatic pressure and collapsed the pipe. If you look at the pipe, it's still intact. Halfway across the roadway, it collapsed right in the median area where the water was concentrated.

The motion passed unanimously.

**Agenda item 4: Adding mileage to the state maintenance system**

*Shiloh Road-Zoo Drive – Billings*

Straehl said staff is requesting that the commission approve adding 0.235 miles to the sate maintenance system. This particular stretch of road is one that our maintenance forces have to cross over regardless because we have maintenance jurisdiction on either side. Informally and through local agreement, we have been maintaining this stretch of road since the Shiloh interchange opened in 2000. Billings and Yellowstone County have requested that MDT continue to maintain this segment. MDT's maintenance administrator and deputy director have concurred that this would be a logical approach since we pass over the stretch of road anyway. It's located on Shiloh Road between the intersection of Zoo Drive and the entrance to Zoo Montana (urban route 1031), between reference posts 4.298 and 4.533.

In order to make this official, the commission must take action according to MCA 60-2-128, which states "the commission shall designate the public highways that are to be included on the state maintenance system."

	Beginning RP	Ending RP	Total miles
Proposed addition	RP 4.298	RP 4.533	0.235
Existing Shiloh Road (U-1031) on state maintenance system	RP 4.533	RP 5.352	0.771
Proposed state-maintained portion of Shiloh Rd	RP 4.298	RP 5.352	1.006

Commissioner Howlett moved to accept staff recommendations to approve the addition of the segment of Shiloh Road (U-1031) from reference post 4.298 to reference post 4.533 to the state maintenance system; Commissioner Espy seconded the motion. The motion passed unanimously.

### **Follow-up question**

Chairman Kennedy said the reconstruction project on Shiloh Road is going to begin at Zoo Drive and will extend north to Park Hill Drive, almost to St. Johns Nursing Home. The city of Billings, St. Johns, and private developers have put together the last segment, and that is already constructed at this time. My question is about the maintenance of Shiloh Road.  
=> I would like to staff to look at this and come back to us.

Shiloh Road is a State Urban Route. The MPO has prioritized this project, we have earmark dollars, we have urban dollars, we have the county, the city, the state...everybody working on this road. As we starting discussing roundabouts, intersections, lighting, landscaping, business ingress and egress, it all comes back to the decision-making body, which is MDT staff bringing recommendations to the Transportation Commission to approve anything on that road. So the question I have is why doesn't the decision-making entity for the road also carry out the maintenance? The city of Billings would like to have complete ownership of the road so they can make all the decisions for the road.

Currie said I don't think there's a clean answer to the question. The only thought I have on it is we're the highway authority with the responsibility to manage transportation Federal-aid dollars. In order to do that, we are responsible for Federal-aid and State system designation. Shiloh Road is a federal-aid highway on the state designated system and receives monies that fall under the umbrella of Title 23, which MDT and the Transportation Commission are responsible for. That's why the decision-making falls where it does. If it were local money being used, it wouldn't necessarily be the same deal although standards would still have to be met. Right now, the law says the commission has to approve all work on a Federal-aid system, but we all know when a local entity does its own work, the approval process is pretty perfunctory as long as the standards are reviewed by the chief engineer.

Straehl added we run into this quite a lot with the systems impact process. If we have maintenance jurisdiction over the route, we then issue the permits for accesses. As a state agency, we have a lot more control over the design that developers are proposing for those accesses. Even when we don't have direct maintenance authority over a route where a developer is seeking an access, we have a stewardship responsibility over that route. We use effect that stewardship responsibility through the local governments to try and ensure that standards are met.

Right now, the project is being planned and it's full bore federal, by full bore we mean that all federal considerations must be met. So, every environmental meeting, every meeting with the public, every time something comes up as an issue, it has to be dealt with, it has to be disclosed, and there has to be a package of actions that are taken that respect that entire huge process. And so, the roundabouts are coming out of this process, the request for landscaping is coming out of this process. In order to use Federal-aid, you've got to use the process. And you've got to make sure that what happens in the process is respected when the project is built. If the city or county have maintenance after it's constructed, it's going to be a little bit shadowy in terms of issuing additional access permits, unless it's access-controlled and then it's right back to the commission: it's a cooperative process between the state, the local government and the community.

Commissioner Howlett said I understand the necessity of the federal process in the construction project, but what's to preclude a project being completed and given to the city. Why do we have to hook this up to a lifetime of maintenance if the city is willing to do it? Straehl said they often are; there are lots of urban routes that are not maintained by us after they're constructed.

Lynch said Commissioner Howlett touched on something that's going on...we need to recognize that a lot of communities get earmarks or federal funding, which comes through



the MDT and are on system. Your [commission] approval doesn't automatically mean that the state is going to have to continually maintain those roadways forever. I suspect that's what we're dealing with here is we received an earmark for a roadway that we don't have any maintenance responsibility on, but since it is an earmark, it does need to go through our system. That's where our involvement comes in.

Chairman Kennedy said I bring it up because we will probably be receiving a letter from both the city and Yellowstone County asking the state to take the maintenance on the whole road.

Currie said we are looking at the possibility of submitting legislation to allow that ownership issue to be resolved, specifically because of this project. Secondly, Shiloh Road was a locally-driven earmark; that was generated at the local level. I don't know that the state ought to be held responsible to accept maintenance for improvements on routes that are improved by local initiative.

Duman said with very little exception, most Federal-aid money flows through MDT. One of the many requirements that go along with that is to maintain that physical improvement after those capital funds are used. Now, that doesn't mean they can't pass that responsibility down the line. But, in the end, it comes back to MDT to ensure. The other issue is the jurisdictional authority to operate and maintain that system, and that's a legal issue.

Commissioner Howlett said I'm in concurrence with Mr. Currie's observation on a locally driven initiative becoming the state's responsibility. Based on the statement about maintenance after the capital improvements, how then do we prorate that portion when we turn over the maintenance to the city or county. In thinking about the size of state government, and thinking about our local capacity to do the job, and having some source of revenue to support that job without increasing the size of the state, it seems that there are several things that need to be considered. It doesn't seem like an impossible situation. I would like to see us begin to think about how we can convey, whether through legislation or some other means, that gets us to a point that the city feels like they can say something because it's within their confines, but where MDT doesn't feel like it's being asked to participate in something that it didn't initiate.

Chairman Kennedy said this discussion leads to another statewide discussion that was raised at the MACO district meeting by the county road supervisors and county commissioners, about gas tax dollars. The amount that the local governments are getting has been frozen for the last six or eight years. It's not just the state that's struggling to maintain roads, the counties and cities are struggling as well. Is there another revenue source out there we should be tapping into, perhaps even a gas tax increase?

Currie said part of the problem is institutional knowledge at the county level doesn't last very long because there's such turnover. It wasn't very long ago that the counties were relieved of the requirement to maintain secondary highways. That had a value of almost \$15 million per year. There was no decrease in the statutory gas tax allocation, so this was a windfall to the counties. Most of the county commissioners that were around when we negotiated that are gone now. The counties have not stayed static in terms of the amount of money available to maintain local roads because that burden has been taken off them.

Currie – another quick comment: one of the tasks I've been given is to make sure the highway state special revenue fund stays solvent for the foreseeable future. Nobody wants a gas tax increase in the state, whether it is done at the local level or at the state level. That's a very delicate balance, I can tell you, right now we are projecting to keep the fund solvent through 2013 but every few months that is questionable depending on what happens. Right today, we go sometimes three and four days where our cash in our account is negative. We may be borrowing money this summer just to pay our bills. It's a cash flow thing, but it's indicative of how lean that fund is running. When the counties talk about wanting to change that statutory distribution, which would have to be done by the legislature, even if you take one penny's worth equivalent, that's about \$6 million a year. That'll break the fund in almost no time at all and then you're going to be looking at a fuel tax increase.

Chairman Kennedy said Gary Larson and Wayne Noem will be doing a presentation on secondary roads at the MACo annual meeting. We are going to try and keep that going every year so the brand new commissioners can understand where we're at. I'd like to invite the two of you [Currie and Lynch] to come and speak on where we are with funding so people understand that; where the balance is, how much comes in, and things like that. Once people have that knowledge, I think they can start to see that you can take money away from one place, you've got to decide which projects you're not going to do. And of course, no one is willing to give up a project.

I know we got off subject, but I wanted to have a discussion about this.

### **Agenda item 5: CMAQ project – Missoula**

#### *Madison Bridge Trail Project*

Straehl said in this agenda item, staff is requesting commission approval for two priorities in the Madison Bridge Trail project Missoula.

Priority I will provide a more direct trail connection between Missoula's Riverfront Trail and the University of Montana and a second direct connection between campus sidewalks and the Riverfront. This portion of the project will construct an eight-foot wide compacted gravel trail running parallel to the roadway. The trail begins at the Riverfront under the Madison Street Bridge then continues in a southeast direction for 512 linear feet. The trail ends with 100 square feet of sidewalk to tie into the parking area at the intersection of Maurice and 5<sup>th</sup> Street. From there, trail users can cross 5<sup>th</sup> street (U-8114W) and enter campus. Priority I is primarily on MDT right-of-way.

Priority II involves widening the existing sidewalk immediately west of the Adams Student Recreation Center. The existing sidewalk is narrow and consequently, has many pedestrian/cyclist conflicts. The proposed project will widen 212 linear feet of the existing sidewalk by another twelve feet with a curb and gutter edge where it meets with the asphalt roadway. Two ADA curb ramps will be included for wheelchair accessibility.

The funding source for this is CMAQ dollars that Missoula receives by virtue of their air quality status. It's being developed as if it were a CTEP project. It is adjacent to 5<sup>th</sup> avenue, which is an urban route, so the commission needs to approve the funding. The development was through the CTEP process, and the request is for CMAQ funding in the amount of \$79,000 which includes \$7,171 for construction engineering and \$71,829 for construction. MDT will administer the project throughout. We are asking for money for the construction and construction engineering.

Commissioner Howlett moved to accept staff recommendations to approve the addition of the Madison Bridge Trail Project, a CMAQ project in Missoula, to the program; Commissioner Griffith seconded the motion. The motion passed unanimously.

### **Follow-up discussion: Arthur Avenue – Missoula**

Commissioner Howlett said at a future meeting, I would like to have more of a discussion on what I've been reading in the paper about US 12 [in Missoula] and widening that so truck traffic can go by the university. I think that makes absolutely no sense. I would like to have a discussion here because I'm just dumbfounded that it was even brought forward as a concept.

Lynch said that process and project predates both you and me. The project was requested by the University of Montana. They own property on both sides. It was also brought by the Metropolitan Planning Organization – city of Missoula, to look at upgrades on that roadway. Right now, we are at the tail ends of doing an environmental document to address what type of roadway is actually going to end up being there. The EA public comment period is going to be wrapping up here shortly, after which the environmental document will come through with a recommendation. This involves an agreement with the MPO, the city of Missoula, and the University of Montana; of course it deals with our system, so we are also involved in the process. As far as us recommending a road to increase truck traffic, that's really not what's taking place. I know comments have been made to that effect, but it's really not what we are doing. It's the process the state has to go through in order to determine what type of

alternative, or what the roadway is going to be, or if it's going to be anything. It could be that the final recommendation is that nothing is done.

Commissioner Howlett said I have students, people who work there, activists, and others who are asking why this is going forward. My response is I don't know. I want to have more of a discussion because I represent those people at the policy level. There's an awful lot of pedestrian and bicycle traffic in the university area. In fact, Missoula just received some kind of an award for being an environmentally friendly place to work because of the number of people that bicycle and walk to work. As commissioner from that district, I would like to have some idea of those projects that are going on and the origin of those projects. I'm going to take a position on this at some point. It's my responsibility.

Lynch said we have no objection to that. We need to understand that, because of the environmental process underway, we cannot predetermine the outcome. We didn't bring this project to the city of Missoula; this project was brought to the Department of Transportation. We have an obligation to walk through the process, which is where we're at right now. I know that people commented at the public hearing about the same issues you raised; those comments will be met and will be addressed and incorporated into the environmental document. There isn't a decision yet as to what the road will look like. Unfortunately, in this process, in order to get the thing started, we have to start with some baseline, and that's called a preferred alternative. It's a discussion point. The consulting company that's doing this project will come to use with their recommendation based on this input. It could be that design, it could be a different design, it could be a recommendation we don't build it at all.

Frazier referred to the map and the one-way couplet that comes up Maurice, and goes across the Madison Street Bridge. That is part of US Highway 12. The geometrics of the corner at Maurice [and Fifth Street] are a lot less than desirable, especially since it is a highway, and there is truck traffic that does go through there. So we do have truck traffic currently going through the university campus. I believe the original intent was to try and develop an alternative to get the trucks out of the university campus.

Commissioner Howlett said I would like this on a future agenda, so that when it comes time to pass a vote, I have some sense of where this came from and how it got here.

Lynch said that's a great idea. We do these environmental processes in all the districts, and, when we get to that point, I'd like to include the commission in what the recommendation is, and what some of the concerns and issues have been during the NEPA process.

### **Agenda item 6: Speed study**

#### *North 19<sup>th</sup> Avenue – Bozeman*

Frazier said you have before you the results of a speed study done on North 19<sup>th</sup> Avenue in Bozeman. The attached e-mail demonstrates concurrence from the city. As shown on the map, the study began at the North 19<sup>th</sup> interchange with I 90 interchange and extended south to Durston Road. Currently, we have a mixture of 35 and 55 and 45 mph there; it is not a continuous speed limit. The original speed limit was set when North 19<sup>th</sup> was built in the late 1990s, when it was a rural area with farm fields. That has changed in the last couple years, it has almost become an urban environment. The recommendation is to make that a continuous 40 mph limit.

=> Chairman Kennedy asked Frazier to thank staff for being so thorough and for communicating with the local governments to make sure they concur with the recommendation.

Commissioner Griffith moved to accept staff recommendations to approve a 40 mph speed zone on North 19<sup>th</sup> Avenue in Bozeman, from the intersection with Durston Road to Springhill Road; Commissioner Espy seconded the motion. The motion passed unanimously.

### **Agenda item 7: Access control resolution**

*Turn Bay – West Three Forks Interchange*

*Project STPP-NH 8-4(51)1-7 in Broadwater County*

Frazier said you have before you a request for an access control resolution near the Three Forks interchange. This was brought up as a safety issue where we can install turn bays, and traffic has increased to the point we need to be careful where we place intersections. This access control resolution supports the development of that project.

Commissioner Griffith moved to accept staff recommendations to approve the access control resolution for US Highway 287 within the parameters of the Turn Bay – West Three Forks Interchange project [STPP-NH 8-4(51)1-7 in Broadwater County; right-of-way project 4435-051-000]; Commissioner Espy seconded the motion. The motion passed unanimously.

### **Agenda item 8: Access control resolution**

*2000-Safety Imp-8km NW Red Lodge*

*Project STPHS 78-1(15)5 in Carbon County*

Frazier said you have before you a request for an access control resolution on Highway 78, as shown in exhibit A. Staff did quite an extensive public involvement process to develop a corridor plan. I believe I showed that plan as an example of what I would like us to do on other corridors where we need to implement that.

Commissioner Kottel moved to accept staff recommendations to approve the access control resolution for MT Highway 78 within the parameters of the 2000-Safety Imp-8km NW Red Lodge project [STPHS 78-1(15)5 in Carbon County; right-of-way project 4720-015-000]; Commissioner Griffith seconded the motion. The motion passed unanimously.

Commissioner Griffith said on a related issue in that area, I was contacted by one of the business owners up at Cooke City regarding a speed zone study in their area. I asked them to send a letter to the commission requesting a study. Currie said that's not under our jurisdiction; National Park Service has jurisdiction from the boundary of the park at Silver Gate all the way through Cooke City into Wyoming, down to Chief Joseph junction, all the way to the Montana border. Lynch said what we might be able to do is compile some information for them when we get the letter. Once we see the letter, we'll have a better idea of how to help them.

### **Agenda item 9: Access Control Exceptions Committee roles and responsibilities**

*US 93 Corridor Preservation (on project Evaro to Polson [NH 0002(418)])*

Frazier said this agenda item is the Access Control Exceptions Committee roles and responsibilities for the US 93 corridor preservation from Evaro to Polson. We negotiated a memorandum of agreement with the tribe, federal highways, and the Department of Transportation on how we we're going to design that highway and how we're going to work such items as access control. There is already a resolution designating that. When we negotiated the MOU, we established a process for handling situations where someone doesn't agree with where the accesses are. This formalizes the process and provides an appeals process so that if someone disagrees with the decision, they can elevate it.

Commissioner Howlett said I was hoping some members of the tribal council were going to be here today. They were unaware this was being presented until a couple of days ago. I am not comfortable with this, because members of the tribal government have expressed grave concern to me about the whole issue of access, and some things that have been done by this committee that they think are beyond the scope of this committee, and I think we need to hear what the tribes concerns are. This says that it provides for the participation of the tribe, but I would be much more comfortable that we have a letter from the tribal chairman expressing support for this. I request that we defer this item.

Currie asked Frazier if this was part of the original MOU. Frazier said it was, and this has also been reviewed by the POG. Commissioner Howlett said I don't feel the tribal council is comfortable with this. I think what was brought to the POG was the perception of the roles and responsibilities of the TDC, and how those were outside what they thought that was supposed to be. This may very well correct it, but I don't know that they're comfortable it. Two or three members of the council plus the tribal attorney sit on the POG. Commissioner Howlett said what I want is for the tribal government to endorse this.

Lynch said I don't think we would be bringing this to you if we didn't think this wasn't an approved document by the Salish Kootenai and negotiated in the MOA and the MOU. However, if you like, we can get more clarification on this. We certainly wouldn't want to be bringing to you something that is not agreed upon through the MOU and MOA process which the tribal chairman has signed.

Commissioner Kottel said there are so many questions on this. For example, who chairs it, who sets agendas, how long does someone sit? It says "one voting representative when appropriate" but then doesn't define what "appropriate" means. Later it says if it's within the jurisdiction of a county they of course have a representative, but are there other times when it would be appropriate for a county representative to attend? It doesn't say. It says that the "entity designates the representative" but later says if the representative can't attend, then the representative can designate another representative. Is that really what you meant, or did you mean the entity can designate another representative. So if I'm the representative and I can't attend, can I send my brother-in-law? Maybe this isn't meant to cover all that, and there's something else out there that's more specific.

Lynch said this is all coming out of the MOU and MOU that was negotiated with the Salish Kootenai and the department of transportation dealing with access on their reservation. But, your points are well taken. So, let's get these questions answered and bring this back at the next meeting.

Commissioner Howlett moved to table this item until the next meeting; Commissioner Kottel seconded the motion.

Lynch said the next POG meeting is May 31 so we can address this then.

The motion passed unanimously.

### **Agenda item 10: Letting lists**

Frazier said I have letting lists for the months of May, June, July, August and September. This represents the remainder of our federal funding for this fiscal year. We have had to delay some projects because of funding issues.

Commissioner Espy moved to accept staff recommendations to approve the letting lists presented for May, June, July, August and September 2006; Commissioner Griffith seconded the motion.

Commissioner Griffith asked if we could discuss the projects we've taken out. Lynch clarified that we haven't cancelled projects; they are just postponed. Commissioner Griffith said he wanted a list of what we've had to postpone, if possible, before the end of the meeting. Commissioner Kottel asked about the domino effect. Lynch said we spend every federal dollar we have, and we hope additional monies in the form of "grab bag" funding will be made available to the state of Montana. We will move projects in relation to the money we have available. An example is Bowman's Corner: we moved it to October, and now it's moved back into September. Every month we look at the projects, what's coming, what additional costs have been incurred through change orders, which projects have come in under budget, and make adjustments accordingly. We'll look at this together this fall during the development of the Tentative Construction Program (TCP). Lynch referred to the increase in construction costs versus what we had planned, and the "take downs" from the federal dollars we are receiving.

Currie said we've moved \$56 million worth of projects from this fiscal year into next, based on current estimates. This will affect next year's TCP. In addition, we have some issues with the bonded projects, which we'll talk about more later.

The motion passed unanimously.

### **Agenda item 11: Certificates of completion for March 2006**

Commissioner Griffith moved to accept staff recommendations to approve the certificates of completion presented for March 2006; Commissioner Espy seconded the motion. The motion passed unanimously.

### **Agenda item 12: Project change orders**

*March 2006 = \$601,332.07*

Frazier said you have before you change orders for March. If you look at the totals, you can see that three districts had none, Butte district is saving us money, and the only change orders we had were in the Missoula district. The largest of those change orders was for \$485,000 and this is for an item with force account work. We set up an item in the contract for when we are reconstructing and find old gas stations to allow for clean-up work. We set it up on force account basis because we do not know the final quantities to do the clean-up work. Commissioner Griffith asked if we can participate in the 1c/gallon petroleum tax to get reimbursed for such clean-up work. Burch said MDT's environmental services does go after reimbursement for these underground storage tanks, and do get a percentage back.

Commissioner Espy said when they reconstructed US 212 through Broadus, there was a service station that had been abandoned, and DEQ had DOT dig up the tanks and they placed a lien against the man who did business there.

Lynch said I've had a little bit of experience with this, and it was my understanding that as long as the tank was registered as an underground storage tank with the Department of Environmental Quality (DEQ), you qualified for reimbursement. If the tank was not registered, and you had the opportunity to disclose it and failed to do that, you would not receive reimbursement from DEQ. I think they have a section that deals with tanks that no one knew were there. The person ultimately responsible for contaminated soil is the person who created it. If someone else deals with it, they may be entitled to reimbursement.

Commissioner Griffith said you can't pass along environmental liability with a purchase. Reardon said typically what happens on our projects is we don't know the tanks are there. It's a laborious process to make sure you capture the plume. We do run into this periodically. Most of these stations were abandoned years ago, and the owners have long since disappeared. If you find contamination in the soil samples, you have to get the tank out of there. If you can find somebody to pass the costs along to, you do, but once you own the ground, you've got ties.

Commissioner Griffith moved to accept staff recommendations to approve the change orders for March 2006; Commissioner Kottel seconded the motion. The motion passed unanimously.

### **Communication with local government**

Ted Coffman, Madison County Commission Chairman

Ted Coffman said during the break I put a letter in front of you. It's pretty self-explanatory. We have Varney Road in Ennis, actually Secondary 249. Jason Giard, Jeff Ebert's predecessor, made some public statements about what he would help do with Varney Road. I believe Loran Frazier was there; he was a staff person in Butte. He may be able to attest to what Jason said.

We have an MDT project in Madison County, starting in Ennis and going about six miles to the southwest. Proposed work consists of a mill, overlay, and a seal. MDT has worked graciously with Madison County to get the millings. We propose to use those going up to

the national fish hatchery, a little bit south of the Varney Road. We bid several projects that we would like to do and try to tie in with the contractor that's doing the MDT work. We have some bids on the Varney Road, and some other bids that Madison County can't do by ourselves. When I wrote this letter, we hadn't opened the bids yet. The price, for a two-inch overlay and chip-seal, came out to about \$355,000 for 4.5 miles of road. I just noticed in your bid-opening downstairs that they're going to do 2.5 miles of road up by US 93 for \$1.2 million. Now's the best time to get the best bang for the buck. I've talked to Director Lynch and Chairman Kennedy about this. I'd like for you to do the whole thing but I understand that your money is just as tight as ours. If we could 50 percent matching funds to help us do this road; it's a very highly traveled road. In the fall, the hunters use it, there are three fishing access sites on the Madison River that are accessed by this road. Just looking for a little help and would be glad to answer any questions.

Frazier said he recalled the meeting was in September 1999. It was just before I left to go to Missoula.

Chairman Kennedy asked for clarification about the \$355,000. Coffman said that's our bid. Chairman Kennedy asked if they had the money to do the bid. Coffman said they were still looking for money. We had several projects, and the bids ranged from a high of \$638,000 to the low bidder was \$355,450 and that person is the one that's doing the MDT job. We are trying to take advantage of economies of scale. We told them at a pre-bid that we're not sure we can do this project.

Lynch said this road is eligible for pavement preservation funds. If we do have money available in that district for pavement preservation without hurting another project, we would be willing to do that. I think the request makes good sense, by taking advantage of an asphalt plant and construction operation already set up in the close vicinity. They're asking us to pay for half of that; I think that's something we can do, if you have concurrence with that. We are going to have to spend the money eventually on that road, so it makes good sense to spend it now. No formal commission action is required on this item, but we appreciate your direction. We are not circumventing the secondary roads priorities.

Commissioner Griffith said it makes sense and it is a good project for that area.

Commissioner Howlett said I would be in concurrence. Commissioner Espy said she would be in favor of it.

Coffman said we are not asking MDT to take over the maintenance of the road.

Chairman Kennedy said Ted has been very persistent on this. He has gone through all the proper channels. We appreciate that.

Commissioner Ed Tinsley, Lewis & Clark County

Commissioner Murray and I came to say hello and welcome to Lewis & Clark County, and thanks for all your help in the past. We have several new things happening: the South [Helena] Interchange, hopefully Custer eventually, US 287 is looking more and more like it might actually occur, and 435 is happening now. Things are happening all over Lewis & Clark County; it's a growing county. We work with Mick Johnson; whenever we call, he's on the phone or e-mail right away. Director Lynch is the same way. We appreciate it. Commissioner Varone is in Yellowstone County at the Governor's DES conference.

Commissioner Griffith asked for an update on the South Helena interchange. Lynch said it's going to bid in June 2007. It's truly been a cooperative venture between the private sector, a city and two counties.

Tinsley said we were sad to see our old friend, the Craig Bridge go, it has found a final resting place. If you want to go see it, it is in a staging area at the old State Nursery on the west side of town. It was quite a move. You never know how many overhead power lines there are until you see one of these moves take place. There was one stretch on Sierra Road where there were about 47 crossings that required moving the power lines. It was just

amazing to watch these behemoths roll through the valley. The new bridge is very nice and will handle all the recreation traffic.

Ron Trahan, Salish Kootenai, thanked the commission for the speed limit changes on US 93. I remind people who complain about the construction that this time next year they'll have a good road to drive. There is some inconvenience, but overall, the communication has been good. There are a few things we need to get going there, such as access roads, minor things we've got to look at. All in all, it's going good.

Chairman Kennedy said we tabled the item entitled Access Control Exceptions Committee roles and responsibilities US 93 Corridor Preservation and will take it up at Red Lodge.

Kristina Davis, Senator Max Baucus' office said we are fighting very hard for the Going-to-the-Sun monies. I happened to be in DC when we got that language change approved in April. The senator is confident that the change will move forward as we've anticipated. He is holding approval of the new national director of transportation in hostage until this is addressed. I will be at the opening of the Beartooth and am looking forward to that.

Charlene Snody, Senator Burns' office, said I've enjoyed the discussion and am learning a lot.

### **Agenda item 13: Liquidated damages**

\$5,802 assessed on project SFCS 419-1(11)0 Jct MT 78 – SW (Riverside Contracting of Missoula)

Frazier said this is for a state-funded project on MT 78. Riverside Contracting of Missoula overran contract time by 6 days. Riverside Contracting signed the Contractors Final Inspection on April 18, 2006 agreeing to the amount of liquidated damages on this project. We recommend assessing 6 days at \$967.00 per day for a total of \$5,802.

The commission took no action, therefore the liquidated damages will stand in the amount recommended.

### **Special presentation**

Commissioner Griffith presented Loran Frazier with a clock as a gag gift.

### **Agenda item 14: Commission discussion**

#### *Beartooth Highway*

Lynch said the snow has been removed from the Montana side of the Beartooth. We are waiting for the Park Service to open the Wyoming side. The Beartooth highway will open all the way to Cooke City, barring unforeseen snowfall. The Beartooth is having their scheduled Memorial Day opening this year, unlike last year, when they could not. As you know, we did open the Beartooth highway last October after the construction, until the traditional closing for the winter.

We have been up to inspect the repairs this spring. We feel we got an exceptional job by JTL. I observed a large rock about the size of a volleyball wedged between one of the chain link fences. What we did with some of the rock outcroppings, was to overlap the fencing which is similar to but much stronger than chain link fence, by almost two feet. Then, to make sure the rock couldn't come through that, we had a larger fence on the outside. You wonder if it really needed all that, but we actually saw a rock between the two layers of fence...what kept the rock from hitting the road was that additional fence. We are pleased with how the road overwintered. We still have a little work to do, we have some repairs to do on the pavement itself, like a seal and coat and striping. The city of Red Lodge has great festivities planned for Memorial Day weekend. Chairman Kennedy said it's always a lot of fun.

Commissioner Griffith asked what the status is on getting reimbursed on that project, both from the feds and the money owed to Wyoming. Lynch said although the road qualifies for emergency relief funding, FHWA has not released that money yet. However, we did receive



\$12 million from FHWA Central Federal Lands which was money given to the state of Montana years ago to improve the Beartooth. Whatever wasn't used in Montana was going to be used on the Wyoming side. They do not have a project over there, so we're not holding them up. That's been a real blessing to the state, because without that, we would have been hurt quite a bit. We will refund the money to Wyoming when we receive ER funding, and they understand that.

Commissioner Griffith asked what the final cost is. Frazier said close to \$17 million. Currie said we got \$12 million from Central Federal Lands, \$2 million in quick relief ER funding. Lynch said we also have an earmark that can be used to pay for the Beartooth until ER funding comes.

Duman said there's a huge backlog of ER requests. We only set aside \$100 million a year on the highway program. Congress is trying to pass a supplemental appropriations bill to help clear up that backlog. Until then, there's no money.

#### *Congratulations*

Lynch congratulated Rick Commissioner Griffith and his wife on their celebration of 32 years of marriage last night.

Lynch recognized Commissioner Chairman Kennedy for the appointment he recently received from Senator Baucus to sit on a special committee to look at different revenue opportunities to fund the national highway system. Kathy Ruffalo of Wyoming was also appointed to the committee; she worked on the last three reauthorizations for the federal transportation bill. We feel very fortunate that Bill and Kathy have been appointed. That's a good thing for Montana.

#### *Highway 93 Evaro – Polson*

Lynch said this stretch of projects was initially estimated to cost somewhere around \$130 million. We bonded those projects. History has proven that was a very smart thing to do. But, because of the increase in construction costs, we are now looking at how to finish the projects. I will turn this portion of the discussion over to Jim Currie.

Currie said we bonded \$130 million worth of bonding authority for these projects, which gave us \$133 million worth of proceeds that we could actually put toward this project. When we initially did the engineers' estimates for these projects, even given building in an inflation factor, we thought it would be enough. We have now let all but three of the projects. Based on the inflation we've seen, particularly this last year, we are going to have a significant shortfall in what these projects are going to cost versus the proceeds we have from the bonding. The shortfall is currently estimated at \$31 million. Of the three projects, one is scheduled to be let in December, the second will be let in either January or February, and the final one will, I think, be let next fall. We will have to deal with the funding shortfall at the Redbook meeting this fall. We will have some options for you to consider, but could be looking at the following: further bonding, taking it "off the top" and treating it as a statewide issue, or push projects out. I tell you this so that you can be thinking about some of the alternatives between now and this fall.

Commissioner Howlett asked if this included the Ninepipes area, which was to be addressed in the supplemental EIS. Currie said it does not. That's one of the problems with this shortfall. We thought we'd have bonding in our back pocket for this Ninepipe–Ronan segment we still need to do. So that's going to be another dilemma we'll have to face. Commissioner Howlett said it's likely to be a very expensive project because of all the wetlands and the threatened and endangered species.

#### *DBE program*

Lynch said a decision by the 9<sup>th</sup> Circuit Court has affected all the states' DBE programs. Any state that had a DBE program was basically ordered you don't have one. The states have to come up with a program. We are working on what our state's program will be. The reason I bring this up is, even without the requirement out there, the Montana contractors exceeded our goal which was around 5.2 percent. Currently Montana contractors are around

8 percent, without a requirement. The contractors are doing a great job of maintaining minority and Native Americans in their employ. We need to commend them for that.

*Secondary roads impacted by oil production*

Commissioner Espy said the eastern counties, where more oil is being found, are having a terrible time with secondary roads. The trucks are so heavy, and they drive too fast. Those commissioners are being really hurt with this. They don't have the finances to improve the roads, and the oil companies are not cooperating with us. The way the incentive tax is being handled, evidently the counties don't get revenue back from oil development for many months – a tax holiday. They are desperate for help.

Chairman Kennedy said it's a catch-22. They don't want to stop production, but the real problem is the roads are being torn up. Can we put the onus back on the companies to help repair the road. Lynch said this is more of a legal question. There is nothing statutorily we can do unless the state is able to prove that the trucks are operating overweight and in violation of state law and causing damages. I suppose we could bring action against them for damaging a state highway. We understand what's going on in the counties and the secondary highways and some of the county roads. We're also seeing it on our roads too. I think it's important that our MCS operation first of all ensures those trucks are operating legally, that they're not overloaded and they're operating within the speed limit. We also don't receive any additional funding from the increase in oil production. For lack of a better response, I feel your pain. Commissioner Griffith asked if we are putting restrictive speed limits on sensitive roads. Commissioner Espy said they are trying to do that, they are putting that on. Commissioner Espy noted that Montana producers are only getting \$30-37 per barrel where other producers are getting \$70. Wyoming is having the same problem.

Chairman Kennedy asked if the state had anything set up similar to the coal board. Currie said he wasn't aware of anything, and the way the coal trust fund was set up, it's almost impossible to tap.

Lynch said there's a tough balancing act. We need to get the oil out, and it's causing some damage to the roads, but do you restrict the size of weight – which we have the capabilities to do – and not get the oil out? I wish there was some easy answer to that.

Chairman Kennedy suggested the counties go to the legislature and see if there could be oil impact dollars.

**Agenda item 16: Next commission meeting: June 28-29 in Red Lodge**

Chairman Kennedy said the next commission meeting will be in Red Lodge. He asked everyone to be in Billings around 10:30 am or so on the 28<sup>th</sup>, at the MDT building.

Chairman Kennedy said he would like to show everyone the CTEP project currently under construction at Pompey's Pillar, the Shiloh – Bench Boulevard connection, Zimmerman Trail, 8<sup>th</sup> Street West in Laurel, US Highway 212, and a tour of the Beartooth. We will stay overnight at the Pollard. The meeting will be across the street at the Red Lodge Pizza Company.

After our meeting, we will take you back to Billings.

Commissioner Kottel reminded everyone that she had another commitment and wouldn't attend the Red Lodge meeting.

Lynch said he wouldn't be there for June 28; he will be taking his youngest daughter to an orientation at Bozeman University.

*Miscellaneous discussion items*

=> Commissioner Espy asked when we would have the signs up for Pompey's Pillar. An event is scheduled there for July 21. Chairman Kennedy said he would put that all together this week and send it to Lynch.

Commissioner Howlett asked where we were with the veterans sign on the bridge in Ravalli.  
=> Lynch said he would follow-up with that.

*Per diem for conference call participation*

Lynch said, it's up to you individually, but under state statute the \$50 stipend that's paid to commissioners also applies to participation in conference calls. Some state agencies and boards/commissions do, and some don't. => He asked commissioners to get with Lorelle on an individual basis if they'd like that.

**Agenda item 15: Public comment**

*George Littlefield, Great Falls*

George Littlefield, neighborhood council IV in Great Falls, offered the commissioners copies of the information he's put together regarding his effort to get school zone safety improved.

The first step, with the help of State Senator Trudi Schmidt, was to get fines doubled in school zones.

The second step is to get school zones defined in state law, and have relevant safety information inserted into the state driver's manual.

I have the full support of the Cascade county sheriff, the Great Falls police department and the Great Falls mayor. I have asked AARP to include this in their over-55 driver training.

This is about education for the teenagers who are studying to take their drivers manuals. I think the state of Montana has a responsibility to define: one, what is a school zone; and two, what is the minimum appropriate school zone safety signage?

Littlefield asked Lynch if he'd been able to do any follow-up after the last commission meeting. Lynch said we are putting together a comprehensive safety plan for the entire state, which involves OPI, and the information you're proposing would be very important to that plan. He asked Littlefield to give information to Sandy [Straehl]. Have you given it to OPI? Littlefield said yes. He'd been asked to work with Fran Penner-Ray, but she was on vacation. Lynch encouraged Littlefield to continue working with Penner-Ray of OPI.

Lynch said the state statute is confusing because it says it's under the Montana Department of Transportation responsibility, however, for eons it's been operated under the Office of Public Instruction. We can help address this through the comprehensive safety plan. Straehl said David Huff is the champion of the part that has to do with driver's instruction. There is an objective devoted to best practices or standards to do with driver's education across the state, so this would be the exact time to get this into his hands. Lynch added that Mr. Littlefield could participate in this process too.

Littlefield asked if it would be possible to do a PSA on school zone safety. => Lynch said we do PSAs at the start of every school year, and perhaps we could do one that focuses on speed. We would have no problem doing that and have the budget for it.

Commissioner Kottel said, from a professor's point of view, it would be very helpful to provide lecturers with curricular materials, such as a course outlines, overheads, PowerPoint presentations, sample test questions, etc, along with a strong letter asking them to incorporate the information into their coursework. This makes it very easy for them to make the change.

Lynch said it is, and at the last comprehensive safety meeting, that's exactly what was asked of OPI, using law enforcement or the Montana Department of Transportation to put a part in the education process of young drivers, similar to what law enforcement agencies are doing statewide and nationally with the D.A.R.E. program. We're very serious about traffic accidents, injuries, and fatalities in the state of Montana. We're looking at putting those types of programs together. We don't have any problem with that.

Straehl added that we have a new funding source, Safe Routes to Schools. A certain percentage of the funding category is dedicated for educational and behavioral training, and this might be eligible.

Littlefield thanked the commission for hearing him.

*Sharon Williams, Dillon*

Sharon Williams, representing Williams Feed and Seed of Dillon, said I am one of the owners. We have five buildings in Dillon and one sister store in Sheridan. Last year, we had a road project come through Dillon. Access control was imposed in Dillon, only on seven buildings on the west side, coming into Dillon. We went to all the public meetings; access control wasn't discussed. The mayor and ex-mayor weren't aware of it. We were told our facilities wouldn't be hurt because the highway would be moving to the east. Someone saw an access control resolution hanging on a board on the courthouse. It was passed by the city of Dillon and the mayor had signed it. Williams discussed the impact access control has had on their buildings, and on the ability of 100-foot fertilizer trucks to access their buildings.

Williams said there were seven buildings in the limited access control area. Five of those seven facilities were taken care of by the Montana Department of Transportation. The scope-of-work document said, "Williamses were going to lose their parking, Williamses need to be reoriented," but no one spoke to my husband and I about these issues. I'm asking today if there is someone who is ethical and who could sit down and explain to us what happened in our community. We didn't ask for the new road, and when it came in, we didn't know this was going to happen, and it was never discussed with Williamses. The meetings started in 1999 and 2000. I know that Bob Fischer came up to me one time and told me he didn't want our trucks out in the road. We are the largest user of fertilizer in our area; we're not a little fly-by-night operation. Williamses has been fighting with the Department of Transportation for two-and-a-half years. We're good people, we're honest people, and we didn't expect to have any of this happen.

They turned C&C sideways, they put a scale in for C&C, and they took parcel 2 (A.L. Gilbert) completely out.

Chairman Kennedy said I will give this back to Director Lynch. Lynch said I would be more than happy to look into what happened from beginning to end in this process.

Williams said we wanted to talk to the commission earlier, and we were told the state didn't want us to go and talk to the commission. Williams said they moved contaminated soil, and we know it was contaminated; that's why we're a thorn.

Lynch asked who in the state told you that they didn't want you to talk to the commission. Williams didn't know but said she would find out.

Commissioner Howlett said I appreciate director Lynch wanting to compile the record. You deserve the truth. You may not agree with what's there, but you deserve to be told the truth. I think the department is trying to take away the mantle that we're just going to ride roughshod over whoever, that we do really care about how our projects impact people, that we really want to be fair with people, and its institutional changes as much as it is anything. There may have been, and I don't know, an opportunity for "old school" – for lack of a better term – ways of dealing with things. I can tell you in the last four years, this commission has been very attentive to the impacts of our projects. I just hope we can find out what went on, and, if something was done, that we have the courage to (inaudible).

Commissioner Kottel said I'm hearing two entirely different things and I hope that when we look into it, we will look at both issues. The first is, do we have a system in which there is adequate notice in terms of public participation and adequate systems that are transparent for the public to participate, and when a proposed limited access plan is disseminated in a broad enough way so that people can look at it and comment in a way that is substantive so that information comes in. Second, whether or not the decision is appropriate. That is entirely different. That is, how are decisions made, what kind of facts are put in, what kind

of participation takes place. That goes to what you [Kevin] were saying, you might not like the decision.

I don't know what the process is, if it's similar to an annexation proceedings, where everyone who is impacted actually receives notice and is formally invited to a meeting, and are noticed in the paper, rather than having to find the information posted somewhere in a public building. If we could look at both of those issues, that would be important to me.

Williams said those who signed right-of-way agreements said afterwards that they knew nothing about limited access control.

Reardon said a couple of facts: Williams Feed retained a very experience trial lawyer from Anaconda to represent them. A lawsuit was filed against this department on the basis of an inverse condemnation claim of behalf of Williams Feed. That went to a jury trial, and I will tell you, we don't go to jury trials around here unless we have a case. That was the second one in twelve years that I've been the chief counsel here. A jury in Beaverhead County heard this case and returned a verdict in favor of the state, that there were zero damages resulting from the conduct of the department. And I think that's important, and I also think it's important that you know, as you delve into this, certainly on the process question I think that's fine, this matter is on appeal to the Montana Supreme Court. So how far you go into this record of this particular proceeding, I think you need to be a little bit cautious.

Williams said the hard evidence, the right-of-way agreements with nearby businesses, were not allowed into evidence in our local court. The judge wouldn't allow it.

Chairman Kennedy thanked Williams for her public comment.

Chairman Kennedy recessed for lunch at 11:57 am and set 1:30 pm as the time to reconvene. At 1:30 pm, we have the discussion on outdoor advertising. There will be some public comment, but I'm going to ask that, with a limited period of time, there be no back-and-forth discussion with those making the comments. We've already had a public hearing; we are not redoing the hearing.

### **Agenda item 1: Outdoor advertising – proposed changes to administrative rules**

Chairman Kennedy said a public hearing was held March 17. I'm going to ask Director Lynch to go over the proceedings to this point, and for the staff recommendation. We are going to limit comment time to two minutes. This is not a hearing; this is public comment time. You will have an opportunity to make public comment on the recommendation that comes forward today.

Lynch said months ago, I think back in February, the commission was asked to appoint a hearings examiner to listen to some possible rule changes in the outdoor advertising regulations that the Montana Department of Transportation administers. That public hearing was held on March 17, St. Patrick's Day. Several people at the hearing commented in favor of the new rules; several commented not in favor of the new rules. Both sides talked about safety. Overall, the hearing was run very well, and a lot of comments were made. I have read the hearings examiner's report, and it was forwarded on to you [the commission]. Since the hearing, several of us have received further public comment on the rules. About 95 percent of the comments were relative to one rule: variable message signs.

Lynch said the department recommends you adopt the rules with two exceptions (shown in bold below):

- Rule 18.6.205 (rule 2) recognition of sponsors and benefactors
  - We want to make sure it is very clear that this recognition of sponsors, benefactors and support groups applies to non-profit sign owners. We recommend clarifying language to read “An on-premise non-profit sign owner may (1) recognize the name of a sponsor, benefactor or support group.”

- Under (f) we recommend adding a definition of what a non-profit is: “A non-profit owner will include schools, churches, and other local governments.”

Commissioner Kottel asked why non-profits weren't defined as 501C(3) organization; you limited it to schools, churches and other local government entities. Reardon said this rule was proposed in response to donated signs primarily that are going to high schools and colleges and so forth, so we didn't want to expand that beyond churches and schools, frankly, and local governments that for one reason or another especially in smaller communities, can't necessarily afford to put up a sign. Lynch clarified that this would disallow someone from forming a non-profit company just so they could put up a sign.

- Rule 18.6.232 Commercial electronic variable message signs

Lynch said the original rule states, “Off-premise commercial electronic variable message signs (CMS), regardless of the message, are prohibited in controlled areas.” That's the existing rule. As I said before, we had a very good public hearing, we heard an awful lot of public comment at that public hearing; we heard pros and cons, we've received a tremendous amount of letters and phone calls on this particular rule change. Changing this rule is very different than what was proposed in the other rules. The other rules were either cleaning up language or shifting words to make it more concise as to what the rules really intended to do. The change in 18.6.232 that was presented at the public hearing is a complete, entire change of an intent of that rule.

With the significant public comment we've received, I'm recommending that we do not change that rule; we leave the rule as stated. Although it is within the jurisdiction of the commission, effecting a change would be a significant cultural change for the entire state. We believe a decision of this magnitude would best be left for the legislature to make.

Chairman Kennedy walked through the other rules up for consideration:

18.6.202 DEFINITIONS (1) Remains as is.

(2) "Commercial electronic variable message signs"(CMS) means electrical or electromechanical signs on which messages can be changed remotely through hard wire or wireless communications and have the capability to present a large amount of text and/or symbolic imagery. ~~contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, producing the illusion of movement by means of electronic, electrical or electro-mechanical input~~ Other names for CMS are "variable message signs"(VMS), "dynamic message signs" (DMS), "smart boards" (SBS), "tri-vision" (TVS) , or digital display (DD), and/or have the characteristics of one or more of the following classifications:

(2)(a) – (6) Remain as is.

(7) "Noncommercial sign" means a sign that does not display a commercial message. For the purpose of this rule, only ~~"welcome to" community and "public service"~~ signs such as DARE<sub>+</sub> or ABATE<sub>+</sub> are considered noncommercial signs. The Montana department of transportation shall make the determination of a noncommercial sign designation on a case-by-case basis.

(8) – (12) Remain as is.

(13) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers, welcome to, public utility signs authorized by State law and erected by State or local government agencies may be considered official signs.

#### 18.6.211 Permits

Lynch said this is to clarify our permit process. We didn't delete any language; we just added language.

18.6.211 PERMITS (1) – (4) Remain as is.

(5) The initial permit fee must be paid within 30-days from the approval of the application or the permit may be canceled.

~~(5)~~(6) 5 is renumbered 6.

~~(6)~~(7) 6 is renumbered 7.

~~(7)~~(8) 7 is renumbered 8.

(9) Ownership of a sign permit will not be transferred without the expressed written consent of the permit holder(s). The current permit holder(s) must sign the document transferring the permit.

(10) Permits cannot be canceled except by the written request of either the permit holder(s) or the landowner(s) subject to the department's approval or by violations of the provisions of the Outdoor Advertising Act. The document requesting cancellation of a permit must be signed by the current permit holder or the landowner(s).

(11) If the permit holder(s) are unable or unwilling to sign the cancellation document, the landowner(s) may request cancellation of the permit by providing the department with a document stating the reason for cancellation (such as termination of the land lease between the permit holder(s) and the landowner(s) and indicating whether the landowner(s) have purchased the sign structure or if the sign structure will be removed. The landowner(s) must sign this document.

#### 18.6.212 Permit applications – new sign sites

Lynch said this is also to clarify the permit process and deal with some confusion in the past as far as what is the physical place of a sign.

##### 18.6.212 PERMIT APPLICATIONS - NEW SIGN SITES

(1) – (2)(b) Remain as is.

(3) The applicant must clearly mark the physical place the sign is to be erected with the exact location of the proposed sign site to enable department personnel to perform the required site inspection.

#### 18.6.221 New sign erection

Lynch said this allows an extension of the allowed time from the time a permit is obtained to the time the sign is installed. It allows the Montana Department of Transportation flexibility under certain circumstances to grant additional time. There may be some reasons beyond their control that they couldn't get a sign up. Commissioner Kottel asked if the sign owner did not erect the sign within six months, and does not ask for an extension time, if the permit would expire. Lynch said it would.

18.6.221 NEW SIGN ERECTION (1) The sign owner within six months of the date of issuance of the permit will:

(a) erect the sign structure (an extension of time to erect the structure may be granted upon written request from the sign owner and at the discretion of the Montana Department of Transportation);

(b) – (c) Remain as is.

(d) attach name plaque to structure identifying the sign owner.

~~(d)~~(e) d is lettered e.

(2) Remains as is.

#### 18.6.232 Commercial electronic variable message signs

Lynch said we are recommending that the original language be retained, and that proposed changes be disregarded.

##### 18.6.232 COMMERCIAL ELECTRONIC VARIABLE MESSAGE SIGNS

(1) Off-premise commercial electronic variable message signs(CMS), regardless of the message, are prohibited in controlled areas. which presents a new message, pictorial image, or change illumination at a rate less than one every six seconds is determined to be flashing or moving light and are prohibited in controlled areas.

(2) A commercial electronic variable message sign (CMS), may be approved as an off-premise outdoor advertising sign within the zoning jurisdiction of city and town areas if the sign does not contain flashing, intermittent, or moving lights, and does not cause a glare on the roadway and the following conditions are met:

(a) A message on a sign must have a minimum display (dwell) time of 6 seconds and a maximum change (twirl) interval of 3 seconds; and

(b) A sign must contain a mechanism that will stop the sign in one position if a malfunction occurs; and

(c) Signs shall be water tight, with service holes to provide access to each compartment with fitted waterproof covers; and

(d) Signs must not be placed with illumination that interferes with the effectiveness of or obscure any official traffic sign, device or signal; and

(e) Signs must not include or be illuminated by flashing, intermittent or moving lights; and

(f) Signs must not cause beams or rays of light to be directed at the traveled way if the light is of such intensity or brilliance or is likely to be mistaken for a warning or danger signal or to cause glare or impair the vision of any driver, or to interfere with the driver's operation of a motor vehicle; and

(g) Illumination or lights for signs must not resemble or simulate any lights used to control traffic; and

(h) Jumping arrows or rapid chasing or flashing lamp borders is prohibited; and

(i) Techniques of message display such as fading, exploding, dissolving messages are prohibited; and

(j) Signs shall only be constructed as a single face, back-to-back or two-faced V-shaped structure. Only one face may be visible in each direction of the main traveled way. Side by side or stacked signs are prohibited;

(k) Signs are prohibited on horizontal and vertical curves; and

(l) Signs are prohibited within 1000 feet of an interchange or railroad crossing and within 500 feet of an intersection; and

(m) Signs shall not be placed within 2000 feet of another sign measured along the nearest edge of the pavement between points directly opposite the signs on the same side of the roadway; and

(n) Signs located within 1000 feet of highway work zones where changing traffic patterns, sudden stops, workers, pedestrians and work equipment are present will be turned off for that period of time to be determined by the Montana department of transportation; and

(o) Portable signs may not be used as permanent illuminated signage; only fixed signs are permitted; and

(p) Wording that implies a traffic control or highway emergency (for example, use of the word "STOP" is prohibited).

(q) Traffic Control Device (TCD) signs or symbols (such as an eight-sided stop sign) in signs are prohibited; and

(r) No sign may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be brighter than necessary for adequate visibility shall be adjusted by the person owning or controlling the sign in accordance with the instructions of the Montana Department of Transportation; and

(4) An existing sign may be modified or updated if the sign conforms with established criteria relating to zoning, size, lighting and spacing. Prior approval from the Montana Department of Transportation is required to modify existing signs, to include a new sign application and a new nonrefundable application fee of \$200.00 will be charged.

#### 18.6.242 Ranch and rural directional signs

Lynch said the main change allows an increase in the size of ranch and rural directional signs from 8 x 36 inches to 4 x 8 feet.

18.6.242 RANCH AND RURAL DIRECTIONAL SIGNS (1) In rural residential areas, slat-type directory Directional signs are allowed at the outer edge of the right-of-way of the intersecting roadways that enter into the main travel way, and may only be erected along the federal-aid primary highway system, giving the name only. Each slat directional sign is not to exceed 8" x 36" 4'X 8'.

(2) In cases where operations do not abut the highway, but have access via a nonpublic access road across other ownerships, directional signs may be located along this roadway leading to the operation, may bear the name of the operation or owner and distance to headquarters, but shall include no advertising. The message content on directional and ranch signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations further describing the activity or its environs are prohibited.

(3) Ranch and rural directional signs may only be erected along the federal-aid primary highway system. The message content on rural directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations further describing the activity or its environs are prohibited. Not more than one ranch sign or directional sign may be erected which is visible to traffic proceeding in any one direction on any highway and advertising activities being conducted upon the real property, including ranching, grazing, and farming activities

(4) – (6) Remain as is.

(7) Not more than one ranch sign may be erected which is visible to traffic proceeding in any one direction on any primary highway and advertising activities being conducted upon the real property, including ranching, grazing, and farming activities.

#### 18.6.245 Noncommercial signs

Lynch said this took out the language addressing "welcome to" visitor signs and removes the limitation for the sign to 150 square feet. The new rule lets the city decide what size their sign should be. We would still retain authority to approve the permit.

18.6.245 NONCOMMERCIAL SIGNS (1) If a noncommercial sign is located on property of the owner of the sign, it shall be considered to be an on-premise sign and not subject to the provisions of this rule.

(2) A noncommercial sign of a local government may be erected anywhere adjacent to an interstate and primary highway within its territorial or zoning jurisdiction, except in a scenic area or parkland, so long as the sign does not create a safety hazard to the traveling public.

(a) A noncommercial sign will not be considered in determining the spacing required between conforming outdoor advertising signs located off premises.

(b) Local government may erect, within the limits of their jurisdiction, noncommercial signs welcoming travelers and describing the services and attractions available but may not advertise private business or brand names.

(c) Not more than one noncommercial sign welcoming visitors or providing information about a community is allowed on each highway entering the community, subject to federal and state outdoor advertising control (OAC) rules.

—(3) A noncommercial "welcome to" community sign shall not exceed 150 square feet in size.



~~(4)~~(3) 4 is renumbered as 3.  
~~(5)~~(4) 5 is renumbered as 4.

Chairman Kennedy said these rules would regulate outdoor advertising signs on interstate and primary routes, and asked Lynch to clarify what that means.

Lynch said interstate would be Interstate 90, 15 and 94. Primary routes would be like Highway 93, Highway 2, US 12. It doesn't cover urban routes or the city roads, or secondary highways. Those are governed by local ordinance. These regulations don't trump those.

Chairman Kennedy said I'm going to go to Billings where I'm familiar, 27<sup>th</sup> Street, State Highway, Main Street: those would not be considered interstate or primary?

Reardon said you [the commission] designate the primary routes. You have to remember that the state law and the federal law don't necessarily mesh real well here. Title 75 in Montana Code talks about the primary system. There are references in federal law to the NHS system. They've kind of moved away from primary, secondary, urban. They've gone to NHS. So, you designate, and have designated, and probably have to get a state map to show you, the primary routes, which is a state law.

Lynch said we have to remember we are only addressing off-premise advertising. For example, a city sign on city property would not be included.

Straehl offered a clarification on the systems question. The federal law speaks about the "old" primary system which has now been taken into, if you will, the non-interstate national highway system in Montana, and the state primary system. And I believe, even though it speaks to the primary system, it includes both the primary and NHS routes. For example, US 93 is a designated national highway system route, it's not a designated primary route. It used to be a primary route.

Commissioner Howlett asked if ordinances would take precedence over the administrative rules. Reardon said a local government could make more restrictions, but not make it more expansive. There are zoning restrictions on commercial activities in a lot of counties. Reardon said a great many signs have been grandfathered into existence. Removing them can be considered a "taking" and subject to compensation. We do not extend our jurisdiction to the secondary highways. We don't regulate on-premise advertising, for example, the hardware store and restaurant currently prominently displaying electronic signs on North Montana Avenue in Helena.

Chairman Kennedy asked if we have a map showing interstate and primary routes. => Straehl said she could get one. The state map doesn't show them clearly. If the shield is square, it's probably a primary route. If it's the shape of a shield, it's probably a national highway system route. It's still not clear in my mind if this subsumed the NHS with it.

Duman said the NHS act came about in 1995. Prior to that, we had primary, designated federal-aid primary, secondary and urban systems. The interstate was a subset of the primary system. In terms of the outdoor advertising control, it would apply to the primary system that was approved around 1987. Those historic maps showing the systems are important. Then we talk about whether we're in a commercial or industrialized zone and what the regulations are that pertain in terms of off-premise signs and outdoor advertising. They're allowed in commercial and industrialized zones; they're not if there were on that system... that's it in a nutshell.

Straehl said that answers my question. All the red lines on the state map are essentially the old primary. They are now partially state primary; there's no longer a federal primary system, it was what the snapshot was in 1987, and that snapshot is now part of the state primary system plus the national highway system routes that are designated both by the commission and by Congress.

Lynch said to get back to Bill's question, which is do our rules govern what happens on Main Street, Billings. Straehl said if Main Street in Billings is on one of those old primary system roads, it would. Duman said we have to know if we're talking about on right-of-way or off right-of-way. Signs on right-of-way are considered traffic control signs and has a whole different process on what kind of sign, shapes and colors and information. We have to be clear that we're talking about off the right-of-way. And, are we within a commercialized, industrialized zone? It has different rules for outdoor advertising.

Commissioner Kottel clarified that the definition of on-premise signs is not about physical location; it refers to the sign advertising only the goods and services provided on the premises. If the company goes out of business, a sign on the roof could not be used to advertise another business. But, could it be used to say "Welcome Special Olympics" or "Welcome Class B Tourney" or "Congratulations graduates" etc.?

Reardon said my interpretation is that it would be permissible. There is not a good definition in state law for advertising. Welcome or congratulations messages would probably be considered a public service, not advertising. Frankly, I'm not sure what the enforcement mechanism would be by the times the Special Olympics are over.

Commissioner Kottel said there's quite a bit of detail in terms of the variety that can take place in signage. Reardon emphasized the entire subject of outdoor advertising is not simple. It is particularly not simple if you've not been involved in it for a long time. It's not just about the evolution of the rules, it's also about the evolution of the state and federal laws. There is a lot of history.

Reardon said as far as the question regarding primary and NHS, the best I've been able to come up with so far is if a route was ever on the primary system, even if it was absorbed into the NHS, it's probably still under our jurisdiction. Sandy would be the one who could establish which routes have ever been on the primary system.

Chairman Kennedy asked about the fairgrounds in Billings. Lynch said that would be considered on-premise advertising, which is beyond the scope of the rules under consideration today.

Chairman Kennedy noted for the record that the public hearing was held March 17, 2006. We have documentation of the hearing, who attended and what was said. Since the hearing, we also received written comments from the following:

Save America's Visual Environment, five-page document dated 5/25/06  
e-mail from Rune Strom to Pat Hurley  
Wendell and Barbara Beardsley  
Web Brown  
Mark "Ole" Olsen, Country Store Ole's Beer Depot  
Wendy Cochran, Iron Horse Ranch  
James Lynn, Bozeman  
Elouis Hill, Kalispell  
L K Christensen  
Juanita Fern Hart, Missoula  
Joel Vignier, Lakeside  
Richard Manke and Susan Lupek  
Nancy W Gordon  
Michael Moffit, Whitefish  
Elizabeth K Wood  
Pete and Carol Daniels, Polson  
Diane Grove, Whitefish  
Deborah Hanson, Miles City  
Bob Walden, Wolf Point  
Joan Vetter Ehrenberg, Whitefish

Although they were not part of the public hearing, they will be part of the public comment time that we have here. At this time, we have time for public comment. Each person will

have two minutes to make their comments on the recommendation that came forward today.

Paul Dennehy, LAMAR Advertising, said I have a question about process. At the public hearing March 17, Mr. Scheier closed and opened the hearing with the statement that comments would be accepted through 5 pm on March 17. If I understand correctly, there was something put out by the MDOT, some kind of notice to the city of Whitefish and the city of Great Falls pertaining to comments regarding this issue. My big issue is, I went to the city of Whitefish that does not even allow outdoor advertising. If something like that was to go out, it should go out to the state. So I question that as far as proceeding goes. I would assume that if Mr. Scheier said no comments were allowed after the hearing on March 17, none of that should be part of the record.

Reardon said Mr. Dennehy makes a valid point in terms of the record you will decide on and the comments you need to respond to. Under the Administrative Procedures law, once you have decided what you're going to do with these rules, you have to go forward and publish notice of the adoption of those rules, probably in July. You must also, by law, respond to comments received during the hearing period. It's impossible for you, under state law, not to accept public comment on any matter that's coming before you that's of interest to the public. That's the law. Is it in conflict with the Administrative Procedures Act (MAPA), well it might be, but the Legislature was very deliberate that there be a public comment opportunity on any item that is before this body, or any other administrative body, and you have to at least accept the comment. You can't stop anybody from coming here and talking to you or saying something.

Commissioner Espy asked if that meant we should ignore everything we heard today.

Reardon said it would be fruitless for you to have a public comment period on this item without allowing public comment, but you do not need to incorporate public comment received today in the formal record nor respond to them under the MAPA.

Lynch said the hearings process doesn't preclude the citizens of Montana from speaking their mind, today or any time, on any issue. Your obligation is to respond to these rules, and your response has to be to the hearing information, but it doesn't mean that information is the only thing that you can use to determine the decision you make.

Dennehy said my question in response to that would be why would Mr. Scheier close comments at the end of that day.

Chairman Kennedy said the purpose of the hearing deadline is so that the hearing officer can have a point at which he makes a report. Otherwise, the hearing would go on forever. The list of names I read off earlier are people that wanted to make public comment, and now we give all of you folks an opportunity to make public comment too.

Dennehy said if the intention was not to cut out public comment, why was the notice in the Whitefish paper and the Great Falls paper, and not all papers in the state?

Reardon said I don't know anything about it; I don't know what notice he's talking about. Dennehy said it was a notice after the March 17 meeting to submit comments on electronic messages. Reardon asked if the state of Montana put that in or if it was private. Dennehy said it was state of Montana, Department of Transportation.

Dennehy said Mr. Scheier's remarks, at the end of the hearing report, were that the new rules comply with state regulations and that if the electronic message boards were allowed at longer than six second increments, they can fly with the present regulations. My question again would be that if MDOT wrote the new regulations, the presiding officer said they do comply with state regulations, and the majority of the people at the hearing were pro regulation change, why are we coming back now and saying leave it as it is? I'm confused on that.

Chairman Kennedy said this is public comment time; this is not question and answer time.

Dennehy said then I will leave it as I'm confused with why they wrote the recommendations to change, the presiding officer agreed they were in compliance with the state code, and the majority of the people at the hearing were for the changes, and now there's an issue of leaving it as is. To finalize, I have a disc of what we're trying to do with our electronic message boards that I would love to show the committee, if possible. I don't know if you'll give me the time; it's a five minute tape. I don't know if that's allowable or not. Chairman Kennedy said I think you could submit a disc to each of the members. Dennehy said I only brought one with me and I will submit it for the record.

Melinda Daley of Helena said thank you for the opportunity to comment. Given tri-vision signs proven ability to distract drivers, regulators should be guided by the US Court of Appeals for the Fourth Circuit declaration that "No empirical studies are necessary for reasonable people to conclude that billboards pose a traffic hazard, since by their very nature they are designed to distract drivers and their passengers from maintaining their view of the road."

I would like to point out on page three of the hearing officer's report, the officer states that "traffic safety experts have found no connection between billboards and traffic safety". There is no study cited here, yet time and time again, reports are either inclusive or leaning towards a safety distraction issue.

I ask the commission to look to their common sense and trust their judgment here. If a company is paying thousands of dollars for a billboard, and another company is paying for advertising, what is the motivation? It's clearly to take the driver's eyes off the road and read the sign. With a changeable message sign, there will be a new message every six seconds. So every six seconds, the driver is tempted to read a new message. That creates a sense of urgency to the driver, and thus a greater distraction than a static billboard. Every six seconds in Montana, that driver would be taking their eyes off the road. That's along with the deer, elk, motor cycles, bicyclists, on and on, for every six seconds.

According to statistics, Montana offers some of the most hazardous roads in the country, with 2.04 fatalities per 100 million vehicles miles traveled (VMT). The average for the US is 1.44 per 100 million VMT.

Daley also presented written testimony on behalf of Joan Vetter Ehrenberg.

Joan Vetter Ehrenberg then offered testimony via telephone. I live in Whitefish, Montana. Mr. Rotering states in his opening statement that he "believes the proposed rules are permitted under the language of the statute." It's my opinion, as a member of Governor Racicot's outdoor advertising taskforce of 1996, that the Department of Transportation's acceptance of the proposed rule changes is not in accordance with the declaration of the Montana Code as written for outdoor advertising.

In reference to commercial electronic variable message signs, the original document states that regardless of the message, they are prohibited in controlled areas. It's clear language stating specific types of signs are illegal and prohibited.

Mr. Lynch addressed it in his opening statement very clearly that this is a very controversial issue. The proposed changes, I have some documentation there that I asked someone to hand to you, allows for changes every six seconds. The authorization cited for the rule change is cited as 75-15-121 which is "Commission rules authorized. The commission may adopt rules to control the erection and maintenance of outdoor advertising along the interstate and primary highway system in conformance with the terms of this part and in conformity." I don't see where that says that the previously illegal changeable message signs within a city and town are now legal has anything to do with the maintenance or putting up of signs. I believe this is an egregious misinterpretation of statute, and has nothing to do with the intent of the law as written.

The hearing officer states of page 127 of his report that the proposal would be "inconsistent" or "out of harmony with the statutory language" asserting that a sign

changing every six seconds is stationary. I strongly disagree. These proposed signs are not stationary. They are flashing, whether they change every six seconds, eight seconds, or 16 seconds, an electronic sign that moves and changes under a minute is a flashing sign. Try explaining to a child that new flashing signs they see all over our scenic state are not flashing because a lawyer ruled that six seconds meant time now stood still. So they'll tell their parents they are still as they jump around the living room every six seconds from couch to couch, and say I'm not moving Mom, because those flashing billboards aren't moving either – right?

I would propose that we vote no as far as the changeable message signs. Thank you very, very, very much for allowing me to participate in this hearing. I really appreciate it.

Rick McAlmond from Helena said maybe to clarify some of the comments earlier, as far as 27<sup>th</sup> Street: if there are city ordinances, local or county ordinances that are more stringent than the department's rules, we as the industry still have to follow the more stringent rules. Hopefully that clears it up. There are many, many areas and towns in Montana where this comes into effect. Before we apply for a state permit, we still have to get any local government to sign off on it first.

Chairman Kennedy closed the public comment time and recessed the meeting for a five-minute break.

After calling the meeting back into session, Chairman Kennedy asked Lynch to summarize this for the commission. Lynch said the department's recommendation is to accept the rules as proposed at the public hearing on March 17 with the exception of two items: rule 2 (1) after the word "on-premise", add the words "non-profit" and (f) define a non-profit owner as "schools, churches, and/or local government." The second change we recommend is to make no changes on ARM 18.6.232. Leave the rule as it exists, which is basically off-premise commercial electronic variable message signs (CMS) regardless of the message are prohibited in controlled areas.

Commissioner Kottel asked if no motion is made, does the current rule stay the same. Reardon said under the Administrative Procedures Act, once a rule is noticed in the register, you have six months to act: to adopt, reject, or amend the proposed rules, or they essentially die of their own volition and you begin the process over. There is an interim step, you can extend that period but you have to do it by publishing another formal notice. The answer to your question is if you do nothing, the proposed rule will die, and the existing rule remains in effect.

Chairman Kennedy said we either need to adopt the rule changes, reject the rule changes, or amend the rule changes, or we do nothing. Reardon said you can do nothing about any of them or some of them. Reardon said the adoption order will need to incorporate responses to the comments received. Chairman Kennedy said we will have the order and the response for each one so we fall under the limits of being able to address this before August 9<sup>th</sup>, correct? Reardon noted none of the rules take effect until they have been published with the Secretary of State; the earliest that would be is July 27, that's assuming we get the order and notice of adoption filed by July 17.

Commissioner Kottel moved to adopt rule I *official signs* into the Outdoor Advertising Regulations – Administrative Rules of Montana (ARM); Commissioner Griffith seconded the motion. The motion passed unanimously.

Commissioner Kottel moved to adopt rule II *recognition of sponsors, benefactors and support groups* into the Outdoor Advertising Regulations – ARM, amended so the word "non-profit" is inserted between "An on-premise" and "sign owner" (to read "An on-premise non-profit sign owner may..."), and the addition of section (f) under (1) to state: "A non-profit is a school, church, or/and other local government entity." Commissioner Griffith seconded; the motion passed unanimously.

Commissioner Kottel moved adoption of administrative rule 18.6.202 *definitions* as presented; Commissioner Griffith seconded. The motion passed unanimously.

Commissioner Kottel moved adoption of administrative rule 18.6.211 *permits* as presented; Commissioner Griffith seconded. The motion passed unanimously.

Commissioner Kottel moved adoption of administrative rule 18.6.212 *permit applications – new sign sites* as presented; Commissioner Espy seconded. The motion passed unanimously.

Commissioner Kottel moved adoption of administrative rule 18.6.221 *new sign erection* as presented; Commissioner Espy seconded. The motion passed unanimously.

Commissioner Kottel moved the acceptance of administrative rule 18.6.242 *ranch and directional signs* as presented; Commissioner Espy seconded. The motion passed unanimously.

Commissioner Kottel moved adoption of administrative rule 18.6.245 *noncommercial signs* as presented; Commissioner Espy seconded. The motion passed unanimously.

Commissioner Kottel said I'd like to state for the record my personal opinion regarding 18.6.232 – commercial electronic variable message signs. I personally think this is an important issue. I think the new technology is important and I think there will be very soon a day when everyone will wonder why we ever printed signs on paper and sent people up to paste them on a billboard when technology is available to have clear signage available to individuals. I also think it could be a wonderful benefit to many communities; I'm thinking of amber alerts or being able to put a child's photo immediately up on a sign to immediately change a message in terms of a community emergency. I think all of things are certainly the wave of the future. One of the things that disturbed me is I'm not sure we sat down in terms of the hearing to truly look at a piece of legislation, this is obviously an administrative rule, that really does justice to both sides of the issue. For me, for example, anything under six seconds becomes forbidden. But anything over six seconds gets labeled this commercial electronic variable signage. What about a sign that only changed once a day at midnight? What about a sign that only changed three times a day, once for the morning traffic, once for an afternoon message, and once in the evening, allowing three different people to advertise to a specific target market? And yet it would be labeled, because it changed more than six seconds, as this, and I'm not sure that sign should come under something like this. I would like to see this go to the legislature. I would like to see us discuss the issue of signage but also be able to embrace technology in an appropriate fashion and in a way that does justice for people of Montana to be able to protect their city but also be able to do justice to those who want to advertise and have low-cost advertising options available to them. I think this was premature, in my mind, in terms of how this was written.

Chairman Kennedy said I think you are correct. I think this is going to end up at the legislature. I think it's an issue that we have heard about and seen about statewide. I think we have a lot of industry folks here. We have a lot of businesses that have responded to this. We've also had a lot of folks on the phone, on the e-mail, and have come out personally on this issue. It's a larger issue that people have looked at.

Kennedy expressed concern that the draft rules expanded the scope of an area of signage more than the commission realized, and were caught somewhat by surprise. He acknowledged we have people interested in the scenic beauty of the state, and the interest in economic development. It shouldn't be a fight to have the beauty of the state and bring people into the state, and also have an awareness out there of what businesses are out there. You folks have spent more time and speak to us, and to go to the public hearing. I think you're very correct on the fact that this does needs more scrutiny and more time to speak on the issue. At this time, I think we are really addressing today what we thought that would come back to us, that was the welcome signs and the signs for the schools. Given that, are there any other comments?

Commissioner Howlett said I've never been lobbied so hard. I was quite taken by surprise with the phone ringing off the hook in my office yesterday morning. Something had appeared in the paper in Kalispell and Whitefish to call me at my office and vote "no" on this subject. I'm not going to support an extreme position. You don't have outdoor advertising where you

have wide open. I think we need to really look at things like density, and have some of these signs that have some technological advancement, and perhaps we won't need as many signs out there. There are ways that this can be done to find some happy ground. We need to be responsive to the differing needs of different communities; e.g. the rural parts of the states need ways to pull people off the roads and into their communities. By leaving this as it is, I guess we're saying we understand it needs more discussion, and it needs to be something that doesn't pit the west against the east. I had 27 e-mails and 49 phone calls yesterday from people in my district. However, I have to consider everyone in the state, including Broadus, Butte and Billings.

Commissioner Griffith said the department did a real admirable job of trying to weigh the public comment on this issue. There's a lot of hard work and a lot of good things that happened, and this whole policy that I agree with. I think it's a very good change, and I agree with Deb that there is a better forum to discuss the one issue. I think they did a very good job of trying to get the whole state to understand that we're business partners. You need the Department of Transportation as much as we want to be open for business in the state, and I think that's the one thing that gets lost in the shuffle: we are business partners but we do have public policy issues that we have to deal with. I think they did a great job in realizing that.

Commissioner Espy said I think that the law as written for us to vote on today, the changes and the electronic variable message signs, are probably something that we will see in Montana. But I do believe that many of points made were very good and a lot of forethought went into them. As we catch up with technology, and it becomes acceptable to the citizens of Montana, we will still see the changes. I'm personally a little concerned about the distances that you had. We travel through the black hills of South Dakota, and they have billboards that are so huge and are so offensive, that we would never want to carry our technology in that direction. I think that you and the industry are just as interested and concerned as we are. If we're going to do it, do it right. I agree with Deb's recommendation, that it should go to the legislature, and let us hear from them and from their constituents, and perhaps we'll get a better feel for the entire state.

=> Chairman Kennedy said he was still confused over interstate versus primary, and asked for a map at the next meeting so that everyone is on the same page. He asked that it include the roads within cities and towns.

Lynch said much more time would be available for dialogue and communication on this issue if this went before the legislature, for citizens to speak their minds, and allow the people they elected into office to make that decision.

Kennedy said I hope our work and our information will be provided to them so they can look at this. It's not an easy subject. I think there are a lot of questions still out there about what this covers and what it doesn't.

Lynch said 18.6.232 deals with just off-premise commercial variable message signs. By not making a change, this means that there won't be any change in the billboards out there today. Off-premise doesn't mean that the sign is off-premise, but the advertising is for something other than is there at the sign's location.

Commissioner Griffith said there's an education thing too that has to go on here. We all see the on-premise signs as the bright, flashing, get-your-attention signs. Really, whether you agree or not, they are a distraction because you can see the sign from four or five blocks away. I know that this is not the type of sign that's proposed here. It's hard to convey to the general public that digital billboards are not the same thing. To the public, there is not a difference between off-premise and on-premise signs.

Chairman Kennedy said some of the comments received didn't want signs at all. They may not quite have understood what the rules were. I think you're correct that there needs to be an education process. I'll tell you, this created some of the most public comments that we have had in the last year-and-a-half on the commission.

Lynch said by not taking action on this rule, it's not dead, and you'll still receive comments. If your intention is to wait until August 6 and not take any action, my recommendation would be to let the public know so they can do what they need to do, rather than wait until August 6.

Commissioner Howlett moved to not adopt the proposed changes to administrative rule 18.6.232 commercial electronic variable message signs and to refer the matter to the Montana legislature; Commissioner Espy seconded. The motion passed unanimously.

=> Kennedy said at our next meeting in Red Lodge, we will have before us a timeline for adoption of the rules that passed, and responses to the comments received during the public hearing process.

The meeting adjourned at 3:50 pm.

Bill Chairman Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission



## Montana Transportation Commission

**June 5, 2006 telephone meeting**

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For additional information, please call (406) 444-7200 or visit the commission's web site at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml).  
For the hearing impaired, the TTY number is (406) 444-7696 or 1-800-335-7592, or call the Montana Relay at 711. Alternative accessible formats of pertinent information will be provided upon request.

In attendance:

Bill Kennedy, Transportation Commission Chair  
Nancy Espy, Transportation Commission Vice Chair  
Kevin Howlett, Transportation Commissioner  
Rick Griffith, Transportation Commissioner  
Deb Kottel, Transportation Commissioner  
Jim Lynch, Director –Montana Department of Transportation (MDT)  
Jim Currie, MDT Deputy Director  
Tim Reardon, MDT Chief Counsel  
Sandra Straehl, MDT Rail, Transit & Planning Administrator  
Loran Frazier, MDT Chief Engineer  
Michael Kulbacki, FHWA Field Operations Engineer  
Lorelle Demont, Transportation Commission Secretary

Chairman Kennedy called the meeting to order at 10:03 am.

### **Agenda item 1: Projects from May 25, 2006 letting**

Frazier said there were five projects we advertised and opened bid on.

Project 1: West Laurel Interchange

Project IM-STPHS 90-8(154)433

Two bids were tendered. There were no errors or omissions in the low bid which was 0.18 percent under our engineers' estimate. Frazier noted that the commission did not award this project following its initial listing in the January 26, 2006 bid letting. At that time, we received only one bid which was 83.97 percent over the engineers' estimate. Frazier said something to note is we saved about \$1 million by readvertising.

Staff recommends the contract be awarded to Sletten Construction Company in the amount of \$3,680,244.50.

Project 2: JCT US 93 – JCT US 2

Project SFCS 548-1(9)4

Three bids were tendered. There were no errors or omissions in the low bid which was 9.72 percent under our engineers' estimate.

Staff recommends the contract be awarded to J T L Group Inc. – Kalispell in the amount of \$1,197,816.05.

Project 3: H St. – Park To Butte – Livingston

Project STPU 7409(2)

Two bids were tendered. There were no errors or omissions in the low bid which was 16.6 percent over our engineers' estimate.

Staff recommends the contract be awarded to A M Welles Inc. in the amount of \$1,160,100.

#### Project 4: Sidewalks – Fox Farm / Park Garden

##### Project CM 5299(71)

Two bids were tendered. There were no errors or omissions in the low bid which was 69.05 percent over our engineers' estimate.

Frazier said we went through our process, and were able to make adjustments for some items, but the low bid and the engineers' estimate were still too far apart, therefore staff recommends the commission not award this contract.

Lynch noted that this sidewalk would serve children going to and from Meadowlark School. Kottel said there has been a lot of frustration from the Fox Farm folks and noted that this is a highly visible road.

Howlett asked if there was any opportunity to work with the city of Great Falls to bid this. Lynch said probably not, but we could do some more investigation and rebid this with the next letting. Kennedy said he would recommend that.

Frazier said he just spoke to Mick Johnson, MDT Great Falls district administrator, about a project across the river that was just finished with substantially lower prices than we saw on this bid. Frazier proposed tying the sidewalk project with a bigger project in Great Falls to be let this fall. Lynch said that's too late.

Kottel said children currently have to walk on the road because there is no sidewalk.

Reardon said we need to update our estimate for concrete.

Kottel asked what 39354 meant under the column entitled contract length. Frazier said that was meant to be the contract completion date.

Kottel noted that United Materials is pouring concrete like crazy at the airport, so perhaps availability of materials was a contributing factor.

#### Project 5: Deer Lodge – West

##### Project STPS 272-1(8)0

Three bids were tendered. There were no errors or omissions in the low bid which was 19.79 percent over our engineers' estimate.

Staff recommends the contract be awarded to Jim Gilman Excavating Inc. in the amount of \$107,283.30.

Commissioner Kottel moved acceptance and award of projects 1,2,3, and 5, and not to award project 4; Commissioner Griffith seconded the motion. The motion passed unanimously.

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### **Agenda item 2: Gallatin Canyon rumble strip installation**

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Straehl said this item is to request commission approval to program centerline rumble strips on US Highway 191 through the Gallatin Canyon. The project has a very high cost-benefit ratio. The intent is to keep trucks and other vehicles from crossing the centerline.

Commissioner Griffith moved to concur with the department's request to add this project to the program and move towards construction; Commissioner Espy seconded the motion.

Lynch said we normally wouldn't be bringing this to you in a conference call, but we hope to bid this project in July, so we needed to move quickly. Lynch noted this will be the first installation of centerline rumble strips in the state. We will be sensitive to motorcycle traffic, so there will be no rumble strips in the passing zones, only in the no-passing zones.

The motion passed unanimously.

### **Agenda item 3: Commission discussion**

The commission's next meeting will be held June 28-29. A tour of area projects will begin at 10:30 am on June 28, departing from MDT's Billings office at 424 Morey Street. The meeting will be held June 29 in Red Lodge, starting at 8:30 am. Around noon, the group will take a tour of the Beartooth Highway.

Kennedy said signs have been installed in honor of Dean Roebling, the young man who was killed in a construction zone in Billings, and asked if it would be possible to fit in a dedication ceremony while everyone was in town, in coordination with the family. Lynch said he would ask MDT Public Information Officer Charity Watt Levis to contact Kennedy to get the details and begin making the necessary arrangements.

The meeting adjourned at 10:26 am.

Bill Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lorelle Demont, Secretary  
Montana Transportation Commission